# OUR GOVERNMENT

## LOCAL, STATE AND NATIONAL

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JAMES AND SANFORD

WISCONSIN EDITION

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# OUR GOVERNMENT

## LOCAL, STATE, AND NATIONAL

1940

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## LOCAL, STATE, AND NATIONAL

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# PREFACE.

THE subject-matter herewith presented partially represents the plan pursued by the authors as teachers of civil government for a number of years in high school, academy, and normal school. It has been found that a study of the methods by which the affairs of government are conducted gives constant interest to the work, and, consequently, the practical side of government has been emphasized. But while our desire has been to bring the actual working of the institutions under which the student lives into prominence, we have also attempted to give such accounts of the origin and early development of forms of government as will assist in explaining their process of growth. The plan of discussion is similar to that followed in "Government in State and Nation." The general favor with which that text has been received leads to the belief that it fully meets the requirement of the Committee of Five for such schools as present civil government in the third or fourth year of the course. In many cases, however, the subject is taught earlier in the course, and the present work has been prepared in answer to the requests of teachers for a text suitable to this class of students.

The arrangement is such that either Local (Part I), National (Part II), or State Government (Part III) may be studied first. In the work on local and State government it is not expected that the student will *learn* all of

the different practices found in the various States, but that he will compare them with those of his own State.

While some of the discussions and many of the suggestive questions are intended to make students realize more completely their duties as citizens, many more having a local bearing will occur to teachers. It is scarcely to be hoped that all of the books and magazines mentioned will be found in any high-school library, but the need for supplementary reading is being met through the rapid increase of public libraries. A working-library on the subject of civics may be accumulated in a short time if only a few of the books given in Appendix D are procured each year. No attempt has been made to give references to all of the material which has appeared within the past few years.

The ability of the reader and the time to be devoted to the subject have been kept constantly in mind. There may be more supplementary questions and references than can be used by any one class. Should it happen, on the other hand, that more work of this character is desired, the need may be met by reference to similar questions in "Government in State and Nation."

In preparing this new edition, we take the opportunity of acknowledging the assistance given by many teachers of civics, strangers to us, who are using "Government in State and Nation," and others who are using "Our Government," for their helpful suggestions.

EVANSTON, ILLINOIS,
July 1, 1913.

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# PART I.

# LOCAL GOVERNMENTS.

## CHAPTER I.

### THE WORK OF LOCAL GOVERNMENT.

**The Preservation of Order.** — The first and most important work of any government is the preservation of order. We think of this function most frequently as exercised in the arrest of offenders who violate the law. In fact, most young persons receive their earliest ideas of government by seeing the policeman, or constable, who stands for the authority of the government. But he is not the only officer who is concerned in preserving order. The police officer who makes an arrest cannot punish his prisoner, but must merely hold him until it is decided that he deserves punishment. This is the work of a court, with its justice, or judge, and the jury. If the prisoner is declared guilty, then the police officer executes the orders of the court by collecting a fine or by imprisoning him. We have here illustrated two divisions of governmental authority: (1) the *judicial*, which decides whether the law applies in particular cases; and (2) the *executive*, which carries out the requirements of the law and the orders of the court.

**Law-Making.** — The executive and the judicial officers are both subject to higher authority: the one applies and the other executes *the law*. The framing of the law is the third function of government. This work is called *legislation*, and is carried on by such bodies as the town board, the village board, and the city council. But these law-making bodies do not have independent authority; they are bound more or less strictly by the opinions of those who elected them to office; *i. e.*, the body of voters.

**The Three Divisions of Government.** — We say, then, that in our country government is based finally upon *the will of the people*. For the expression of their will they choose numerous officers, who may be grouped under three heads, corresponding to the general divisions of government: legislative, executive, and judicial.

Just as it would be impossible for all the voters to take part in applying or interpreting the law, so it is in most cases impossible for them to assemble in a body and make the laws. They generally delegate this work to legislators; but in some States the voters of a town (or township) assemble yearly in town meeting, where all may take part in discussion and in voting.

**Roads and Streets.** — The preservation of order is but one of the functions of government. In towns where the population is scattered, roads must be built, and it is still more necessary that in villages and cities, where many people live within a small area, streets should be graded and paved and sidewalks maintained. This is an illustration of the way in which, through the machinery of government, people provide themselves with many conveniences

that it would be impossible for each citizen to provide for himself. The legislative bodies already mentioned determine the extent to which these things shall be done: the town board orders the laying out of a new road; the village board or the city council passes ordinances saying what streets shall be paved and what materials shall be used in the work.

**Executive Officers, General and Special.** — The actual execution of the work involved in public improvements is generally in charge of a special officer, such as the road or street commissioner. But since there are many other matters of public concern that require attention, each under the control of an executive officer, it is necessary that a general officer should be in authority over all of these as the *chief executive* of the local government. This officer is known by various titles, as, in the town, the *chairman*, in the village, the *president*, and in the city, the *mayor*. In any case, he has all or most of the important executive work of government under his control. It is his duty to see that the laws are obeyed, so the police officers are subject to his orders. The chief executive is guardian of the people's interests; for he must see that the minor officers do not injure the public welfare by neglect of duty, and he must defend the public from all persons who would encroach upon its rights.

Let us now consider some of the other ordinary functions of local government.

**The Poor.** — Poor relief may be mentioned first. How much aid shall be granted to paupers, and how shall it

be distributed, are questions that everywhere require attention.

**Public Health.** — Public health is also an important subject upon which local laws must been enacted. In cities, particularly, the council passes strict regulations for preventing diseases and for checking the spread of such as are contagious. City ordinances are also enacted regulating the construction of sewers and drains. The health commissioner and the city physicians are the particular officers who direct the execution of laws upon these subjects.

**Education.** — Public education is among the most important of the local government's functions. The free schools which exist everywhere in our country are supported and controlled chiefly by the towns, villages, and cities. In many States, however, there are other divisions, called school districts, which have boards and officers for this purpose.

**Other Necessary Functions.** — Protection from fire is so important in communities where population is dense that special officers and apparatus must be provided. So, too, streets must be lighted, and a pure water-supply provided.

**Parks, Museums, and Libraries.** — Besides the functions of government that are readily seen to be necessary, there are others which may not at first appear to be so. We have cities providing parks, with beautiful lawns and flower-gardens; museums, where articles of historical and scientific interest are kept; aquariums and zoological

gardens; libraries, with books, magazines, and papers for the free use of all citizens. If one looks closely, he will see a reason in each case why the government undertakes these various enterprises.

**Why Taxes Are Levied.** — We have now to consider a power of government, without which none of the others so far named could be exercised. This is the taxing power. In every case money must be used by local governments in exercising their functions. Officers, who are agents of the people, depend largely upon taxes for their salaries. Taxes are levied by the legislative bodies that we have found in towns, villages, and cities. Other officers, *assessors* and *treasurers*, determine the amount to be paid by each citizen and collect the taxes. The treasurer also has charge of public money, and pays it out when ordered to do so by the proper authorities.

All of the operations of government are matters of record. While each officer is expected to keep strict account of the operations of his own department, the general records of towns, villages, and cities are kept by the *clerks*.

This general view of local governments may now be summarized in two forms:—

## I. The Functions of Local Government.

1. *Protection:*—

The preservation of order.
Protection against fire.
Protection of public health.

2. *Providing Necessities and Conveniences:*—

Roads — Streets — Sidewalks.
Water — Lights — Sewers.
Poor relief — Education.
Parks — Libraries — Museums.

## II. Officers of Local Government.[1]

| TOWN. | VILLAGE. | CITY. |
|---|---|---|
| Board | Board | Council |
| Chairman | President | Mayor |
| Clerk | Clerk | Clerk |
| Treasurer | Treasurer | Treasurer |
| Assessors | Assessors | Assessors |
| Constables | Constables | Police |
| Road Commissioner | Street Commissioner | Street Commissioner |
| Justices | Justices | Justices |

### SUPPLEMENTARY QUESTIONS.

**Make a study of your local (town, village, or city) government.**

1. **Group the officers as legislative, executive, and judicial, respectively.**
2. **How many different methods are used in paying these officers?**
3. **Do all the voters ever assemble to make laws? If not, how is the will of the majority expressed?**
4. **What are some of the local regulations regarding the poor?[2] public health? protection from fire?**

[1] The list here given is not complete, and the official titles are not the same in all States.

[2] For a general account under this topic, see James and Sanford, "Government in State and Nation," Chapter VIII. Health regulations are discussed in the same work, pp. 70–72.

5. Who pays for the education that young people receive in the public schools?
6. How much has your local government done toward furnishing things that are not merely conveniences? How do you justify expenditures for these purposes?
7. Does the management of local government excite as much interest among the citizens as it should?
8. In what ways are students directly interested in having efficient local governments?

## CHAPTER II.

### COUNTY GOVERNMENT.

**Why There Are Counties.** — If the local organizations discussed in Chapter I could attend to all the interests that citizens have in common, then government would be a much simpler matter than it is. But just as almost every citizen has business and social relations outside of the neighborhood in which he lives, so different communities must have political relations with each other if they are to live in harmony. For this and other reasons, which we shall learn presently, county governments are established. Their organization and functions correspond quite closely to those of the towns, villages, and smaller cities.

**Important County Officers.** — The local governments cannot undertake alone the preservation of order or the protection of citizens against criminals. We have, consequently, an important officer, the *sheriff*, who with his deputies has power to make arrests. There is also the judicial side of county governments, seen in the *court*, with its judge. In this court another county officer, called the *district* or *State's attorney*, prosecutes persons who are accused of crime; *i. e.*, he finds evidence of the prisoner's guilt and causes this evidence to be given by witnesses at the trial.

**Functions of County Government.** — Public highways are also matters of more than local interest. When an expensive bridge is to be built, or an important road in which several communities are interested is to be constructed, the county government can best raise the money and manage the work. So, too, in caring for the poor, the county may aid the local governments, or it may take entire charge of the paupers, and maintain a poorhouse.

**The County Board.** — It is evident that there must be a legislative body which shall determine the policy of the county in these matters. This is the *county board*, or as it is called in some States, the *county court*. In most States this body is composed of *commissioners*. These are elected by either of two methods: (1) at large, when every voter may vote for the entire number of commissioners; (2) they may be elected from districts into which the county has been divided. In some States the members of the county board are called *supervisors*, and they represent the towns, villages, and wards of cities. Under this system the county board is generally larger than under the commissioner system. There is another difference between the two systems: in the States that have county commissioners, the county government has a larger number of functions than in the other States. That is, the county government has almost entire control of such matters as roads and poor relief, leaving the local governments with little authority in these directions. On the other hand, where the supervisor system exists, the towns and villages have chief authority in legislating upon these matters, and the county assists

or takes only such part as it finds necessary for the general good.

**Power of the Board.** — The county board holds annual meetings and makes laws for the county as a whole. It has charge of the county property, including the court-house, jail, and poorhouse. Since it must provide for the expense of maintaining these buildings, for the salaries of county officers, and for other expenses connected with roads, poor, and other county business, the board must also have the power of levying taxes.

**Superintendent of Schools.** — Education is another function of government which is not managed solely by the local units. There is a county officer, called the *superintendent of schools*, who has supervisory powers, and he usually examines teachers and certifies to their qualifications.

**Register of Deeds.** — The *register of deeds*, or *recorder*, is a county officer who keeps records of certain kinds. Among other things, copies of deeds are registered or kept in his office. A person wishing to buy real estate (*i. e.*, houses or lands) may, by consulting the records in this office, learn whether the owner has a clear title to the property.

**Coroner.** — The *coroner* has the duty of holding inquests when persons meet death by violence or in some unexplained way. He may also perform the duties of the sheriff when the latter cannot perform them.

**Surveyor.** — The county *surveyor* makes surveys at the request of public authorities, as well as for individuals. He keeps the official records of the boundaries of farms and lots.

**Clerk and Treasurer.** — Of course the county must have its *clerk* and *treasurer*, the officers whose duties are to keep the records and to handle county moneys.

We may now pass in review the principal features of county government: —

### I. Legislative.

1. *County Boards:* —

Commissioner type
Supervisor type

2. *Functions:* —

| | |
|---|---|
| County buildings | Roads and bridges |
| Poor — Education | Taxation |

### II. Executive and Administrative Officers.

| | |
|---|---|
| Sheriff and Deputies | Attorney |
| Clerk | Superintendent of Schools |
| Treasurer | Coroner |
| Register of Deeds, or Recorder | Surveyor |

(In some States, Assessors and Collectors of Taxes, and Auditors.)

### III. Judiciary.

County Court District Court

**Relations of Local Officers to State Law.** — There are other reasons than those already given why States are divided into counties. One is because, in the performance of their duties, the county officers act as agents for the State; that is, they carry out the State law in their own localities. For instance, criminals are brought to trial and punished under State law, but it is administered by local or county officials. So the surveyor, superintendent of schools, register of deeds, and other officers act under State laws. While it seems best to have one general law for the State upon important subjects, it is also the policy of our government to intrust the execution of the law, in most cases, to local rather than to State officials. These officers, being elected by the people of the various localities, feel their responsibility more keenly than if they obtained office by appointment from State authorities.

What has been said concerning the relation of the county to the State government is true to a considerable extent concerning the town, village, and city governments. Here, too, elections are held, taxes are collected, and trials are conducted by local officers in accordance with State law. Indeed, it is true that these local divisions owe their existence to State law. Towns are laid out, villages and cities are incorporated, in accordance with the provisions of laws enacted by State legislatures. The State is the source of all the authority exercised by the officers and governing bodies of these local governments.

## SUPPLEMENTARY QUESTIONS.

Make a study of your county government.

1. Outline the officers in groups, as on p. 6.
2. Learn the important duties of each officer.
3. Are officers paid by fees or by salaries? Which is the better method?
4. What is the length of the term for which each county officer holds his position?
5. How many members constitute the county board? Are they commissioners or supervisors? When do the meetings of the board occur?
6. Obtain a copy of the county board's report and ascertain what important business has been transacted.
7. What buildings has the county at the county seat? Does it own property elsewhere?
8. What process is followed in laying out a new town? in the incorporation of a village?

## REFERENCES.

1. The functions of government. Hoxie, How the People Rule, 11-16. Reinsch, Young Citizen's Reader, 31-46. Dole, Young Citizen, 73-92.
2. Towns and villages. Reinsch, 145-152. Hoxie, 42-63. Hill, Lessons for Junior Citizens, 142-168.
3. County government. Reinsch, 163-166. Hoxie, 90-103.

## CHAPTER III.

### THE ORIGIN OF LOCAL GOVERNMENTS.

**The Source of Our Local Governments.** — If we look further into the systems of local government which have been described, we shall find facts in the history of their origins which explain many of their details. We shall now see how local government grew in the colonies, for here we have the beginnings of the systems that are in operation to-day.

Everywhere in the colonies the English settlers brought to their new homes the ancient customs of the mother-country. Differences in physical geography, and in the character and motives of the colonists, caused differences in the resulting local governments. This fact is best illustrated by an account of what took place in New England and in Virginia.

**The Method of Settlement in New England.** — These colonies were settled by emigrants who came, in the main, from the same classes of Englishmen. The New Englanders, however, were Puritans. The church and its services were a very important part of their daily lives. The requirement of church attendance was one reason for grouping their homes near the meeting-house. Moreover,

the region in which they settled had a stony soil, difficult to cultivate. Their farms required careful cultivation, and therefore could not be very large. The New Englander was content to live near the coast. Means of traveling to the interior were not easy, for the rivers, with few exceptions, were short and rapid. The sea fisheries tempted the settlers to remain near the coast, and fishing, with ship-building and commerce, became their important industries.

**Town Meetings and Officers.** — For these reasons New England was a region of small farms and towns, and the local government which grew up was adapted to these conditions. The voters of each town (or township) met annually, or oftener, in "town meeting." Here their common local affairs were discussed and regulated. The church, the schools, roads, the poor, and many other matters were under the complete control of this meeting, and of the officers elected by the assembled voters. These officers were the selectmen, — which was a board having general supervision of the town affairs, — the clerk, treasurer, assessors, fence viewers, constables, and numerous others.

**The County in New England.** — Because the people lived in towns and could most easily regulate their affairs through the machinery of town government, they had no counties whatever at first; but these were soon established, though merely for judicial purposes. The governor appointed justices who held court in each county.

The leading features of New England local government,

then, were (1) its democratic character, seen particularly in the town meeting; and (2) the fact that nearly all local affairs were managed by the town government, leaving but one important function, and that judicial in its nature, for the county.

**The Settlement of Virginia.** — In the colony of Virginia we find conditions that bring about entirely different results in the organization and workings of local government. Here the settlers were not bound by religious or other ties into compact social bodies as the Puritans were. Natural conditions in Virginia made it better for the settlers to live apart, so that nearly all their attempts to form cities and towns failed. The cultivation of tobacco, of course, explains this to a large extent. The fertile soil and the ease of raising this product led to the formation of large plantations. The broad rivers made progress into the interior remarkably easy; and there seemed little necessity for towns as shipping ports, because ocean vessels could stop at the private wharves of the various plantations. The rich planters were most prominent in the social and political life of the colony, and local government fell under their control.

**The Importance of the County.** — Now, of the various local organizations to which the Virginians had been accustomed in England, the one best suited to their condition in the colony was the county. So they copied the English county and made it their chief organ of local government. The principal governing body was the *county court*, com-

posed of justices appointed at first by the governor of the colony. The court had both legislative and judicial functions. It managed such matters as roads, licenses, and taxation; it also tried civil and criminal cases. Other county officers were the sheriff and the lieutenant, the latter being commander of the militia.

**The Parish and the Vestry.** — That part of the Virginia local government which corresponded to the New England town was the *parish;* but it is apparent that few functions remained to be exercised in this, their smallest political organization. The counties were generally composed of several parishes. The governing body of each was the vestry; it had charge of church affairs and of poor relief. The members of the vestry and also the justices of the county court were not elected by the people, as the town officers were in New England. On the contrary, both the vestry and the county court filled vacancies in their own number, without popular election.

This fact serves to illustrate the general truth that local government was democratic in New England and aristocratic in Virginia; in the former colony the mass of voters took part most actively in local government, while in the latter a few men constituted the ruling class. This does not mean that local affairs in Virginia were badly managed, for the leading men were on the whole intelligent and public-spirited; and in the years of the Revolution they were among the foremost in the defense of American liberties. In New England, however, it was noticeable that the mass of voters were intelligent and understood the practical

management of political affairs — a result which doubtless came largely from their training in the town meeting.

**The Three Types of Local Organization.** — We have now seen that in New England the town had the most important functions of local government, and this is called, therefore, the *town type;* while in Virginia the county had the greater share of governing powers, and there we find the *county type.* Virginia influenced the colonies that lay south of her, so that the county type was found also in the Carolinas and Georgia. In the middle colonies there existed both counties and towns, and here there was a much more equal division of powers between these organizations. Hence we call theirs the *mixed* or *township-county type* of local government.

**Local Government in the West.** — The people who migrated to the new States west of the Alleghanies carried with them the forms of local government which have just been described as growing up in the colonies. This statement needs some modification, for nowhere in the West was the pure town type adopted. Everywhere in the North we find the mixed type, while the Southern States have, in general, the county type. In the latter the county commissioners, elected at large or from precincts, together with other county officers, exercise most of the local powers of government.

**Two Forms in the North.** — In the greater number of the States that have the mixed type, the county is gov-

erned by a board of commissioners elected by either of the methods just mentioned as prevailing in the South. In a few States (such as Michigan, Illinois, and Wisconsin), the county board is composed of *supervisors*, who represent the towns, villages, and wards of the county. Here we find the town meeting, copied after that of New England or New York, and the town government has more functions than in those States where commissioners compose the town board.

**Local Self-Government.**—Such is the way in which local government has come about in the various States of the Union. Rooted in the systems that Englishmen have developed through the centuries, adapted to the new life and the peculiar conditions of the colonial period, it has spread with the population throughout the land. The management of local affairs by the people and their chosen representatives is a sound principle of government which holds a firm place in every part of our country.

### SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. **Which type of local government exists in your State? Can you account for its origin?**
2. **Is the system of local government uniform throughout your State? If so, why is this true? If not, can you account for the lack of uniformity?**

## CHAPTER IV.

### THE GOVERNMENT OF CITIES.

**The General Plan of City Government.** — The general framework of city government is not very different from that of the other governmental divisions. There are the legislative, executive, and judicial departments, whose organization and functions are stated in the *charter*, or fundamental law of the city. The city legislature is the *council* or *board of aldermen*. In most cases this body is a single house, though in some cities there are two houses. The members are elected from the wards into which the city is divided. The council may pass ordinances for the government of the city, but it is limited in the extent of its powers by the terms of the city charter.

**City Charters Granted by Legislatures.** — The source of the charter is the State legislature. In most States the constitution provides that the legislature shall pass *general laws* prescribing the framework of all cities, or of the classes into which the cities of a State may be divided, according to their population. These laws also contain regulations that are safeguards against the abuses of municipal government, such as heavy taxation and the accumulation of debts. The requirement of general laws secures uniformity in the most important features of city

government, and it prevents the practice, which is otherwise liable to prevail, of constant interference by State legislatures in the affairs of certain cities. Such *special laws* should be enacted with great caution, if at all; for when a legislature regulates the affairs of a particular city, it too often does so at the request of persons or corporations having advantages to gain at the expense of the public.[1]

**The Mayor.** — The chief executive of the city is the mayor. He is the head of the police department and has more or less authority over the other administrative departments to be discussed later in this chapter. In the cases of both mayor and aldermen, the facts concerning their terms, salaries, and other details vary so greatly in different cities that no general description is possible.

The city judiciary includes the ordinary State courts and also special or municipal courts of various degrees.

**Other City Officials.** — Besides the officers enumerated, every city has its clerk, treasurer, attorney, and assessors. The auditor, or comptroller, is an important official who controls city finances.

**Administrative Departments.** — The greatest difficulties of city government arise in connection with the numerous administrative departments; these are quite complex in their operation. In large cities the number of officials and the variety of their duties render it almost impossible

[1] In some States where the constitutions require general laws applying to classes of cities, single cities have been put in classes by themselves; so the legislature has virtually governed them by special laws.

for the average citizen to become informed concerning these affairs; consequently, opportunities for fraud and mismanagement occur frequently.

Why, it may be asked, is such complex machinery necessary in municipal government? It is because social and industrial conditions (that is, the circumstances under which men live and work) are quite different from those that we find in towns and villages; and city government must be adapted to these conditions.

**Conditions Peculiar to City Life.** — Let us notice some of the ways in which this is true. (1) The mere fact that population is dense increases the possibility that a citizen may interfere with the rights of his neighbors even in the conduct of ordinary business. (2) There is greater liability that public health and safety may be endangered, both in the homes and in the shops and factories of cities, than in less densely settled communities. (3) The opportunities for evil-doing and for concealment that exist in cities draw to them a larger proportion of the vicious classes who need control and suppression. (4) Finally, in cities it is less easy than in the country for each family to supply itself with certain conveniences, such as water, light, and transportation; consequently, the government must regulate to some extent the supply of these necessities.

These are some of the conditions that are peculiar to city life; and we find here the reasons why the government in a city must undertake a large number of functions. At every point the safety of the citizen and his property must be guarded; and in a great many ways the conven-

iences of life must be supplied by the city or under the control of city officials. Thus we account for the fact that city government is complex — the principal source of the difficulties and the evils that we find in connection with administrative departments.

**Fire and Police Departments.** — The number and the organization of administrative departments vary considerably in different cities. Everywhere we find the police, fire, and health departments. Fire departments are, as a rule, very efficient; for the citizens will not allow laxness in the protection of their property. The efficiency of police departments varies greatly in different cities. When the selection of police officers is on a political basis, the standards are apt to be low, and the police may then protect or even assist violators of the law. Instances have been known where policemen received, regularly, money payments from law-breakers whom they did not arrest. The detection of this form of corruption is difficult; nevertheless, if it continues, the people are evidently not awake to their own best interests. In other cities, on the other hand, the police force is maintained upon a high standard. Sometimes civil-service-reform methods are used in the selection of policemen; the passing of an examination is necessary for appointment. This, with a fair system of promotions, should render a police force more like a military organization in its relation to the enforcement of law.

**The Health Department.** — The department of public health has duties that are of vital importance. Sewerage

systems, sanitation, and the water-supply are the chief objects of its inspection. Health officers also have powers which enable them to detect and prohibit the sale of impure foods. The milk-supply should receive its particular attention, for the purity of this product is an important matter. The enforcement of strict health regulations in the crowded tenement districts of large cities is very difficult; but the neglect of these matters by city officials is nothing less than criminal.

**The Department of Streets.** — This department, which has in charge the construction of streets and pavements, affects the convenience of every citizen. Here vast sums of money are expended, sometimes wisely, and sometimes under the supervision of officials who are lacking in the technical knowledge required by this kind of work. Opportunity for dishonest handling of public money may be found in the letting of contracts and in the purchase of supplies. Street-cleaning has received comparatively little attention in American cities. In this respect we are far behind many European cities. This is because the relation of clean streets to public health, and to civic beauty, is not fully appreciated by the average citizen of our country.

**Public Charities.** — The administration of public charities is everywhere a difficult matter, and, naturally, its difficulty is greatest in large cities, where we find the greatest number of those who seek relief. Two problems confront the department of public charities: (1) How can it distinguish between those who actually need assistance

and those who do not? (2) How can it help those who need assistance temporarily, without weakening their desire to become self-supporting? The same problems must be solved by the citizen in connection with his private charities. In general, it may be said that charitable work is best managed by private organizations, in charge of trained workers, who can investigate all cases of application for aid.

**The Public Schools.** — Public education is another department of municipal activity.[1] City governments spend great amounts of public money for this purpose. The work of our educational institutions is constantly being enlarged; courses in commerce, manual training, and domestic science are intended to strengthen the practical side of education. In some cities special schools are maintained for the defective classes and for truants.

**Libraries, Parks, and Playgrounds.** — The educational advantages furnished by the city are not for the children alone. Public libraries and museums serve adults as well. Recreation is provided by means of parks, public playgrounds, and open-air gymnasiums. These will become more common when their educational influence is more fully understood.

**Committees or Boards.** — The important questions that arise in connection with administrative departments are, how shall they be organized? and how shall the officers who control them be appointed? Two general methods

[1] This subject is also treated in the chapter on Public School Systems.

prevail: (1) In the smaller cities the members of the council are grouped into *committees*, which have charge of the various administrative departments. In large cities there are *boards* or *commissioners*, distinct from the council, and these may be composed of salaried officers. In either case the board may employ a superintendent to take charge of the work under its jurisdiction. The principal criticism which can be offered against this method of managing administrative departments is that responsibility cannot be definitely located. No single member of a board or commission will assume responsibility for mismanagement; and when responsibility is divided among several persons, none of them feels it very strongly.

(2) **Single Heads of Departments.** — As a remedy for this defect, administrative departments in some cities are placed under the control of *single officers*. These are given authority to appoint their subordinates, and they are held strictly accountable for the management of the department. Responsibility is further concentrated in some cities by giving the mayor power to appoint these heads of departments.

**The Commission Form of City Government.** — This form is found in a number of cities throughout the country. In place of the mayor and council these cities have a small body of men (generally three or five) who both make and execute city ordinances. They are elected at large from the city. Each of the commissioners is in charge of one or more of the city departments, and all subordinate officers

are appointed by them. The commissioners are expected to devote their entire time to their duties and they are paid liberal salaries. Thus, it is hoped, city government will become more business-like and efficient.

In most cities that have the commission form provision is made for the *initiative*, *referendum*, and *recall*. The initiative enables a body of citizens who sign a petition to obtain a certain law by popular vote, if the commission refuses to pass it. The referendum enables citizens to vote for or against a law that the commission has passed, and thus to repeal it if they desire. Under the recall a member of the commission can be made to stand for re-election, or else to resign, at any time during his term of office, if a certain number of citizens petition for this action.

**Qualifications of City Officers.** — Grave questions are involved in these matters of organization, but the efficiency of city government depends in the greatest measure upon the character of the officers who are placed in power. We need to recognize the importance, in city affairs as in private business, of securing officials who are qualified by training and by successful experience to serve the public. Economy and honesty in municipal government cannot be expected when politics alone determines appointments to office. The establishment of civil-service-examination systems in certain cities is a step in the right direction.

**Public Utilities.** — Besides the administrative departments already mentioned, we have in large cities those which control the supply of water, light, and transportation

facilities. The industries furnishing these necessities may belong to the city, but in most cases they are owned by individuals and corporations.[1] Even then they should be subject to strict regulation by the city, for several reasons: (1) These industries make use of public streets. The right to do this is granted by the council in a *franchise*. (2) The product that is supplied being in each case a necessity, it is the duty of the city government to protect the citizens from any abuse or inconvenience that may arise in connection with it. (3) In nearly every case the industries in question are monopolies; *i. e.*, competition between rival plants is not possible. For this reason the public may suffer either from high rates or from imperfect service.

**The Question of Municipal Ownership.** — The opinion is gaining ground that no amount of municipal control will cure the evils of private ownership in these industries. Since they are "natural monopolies," it is argued they should be operated by the city government. This opinion is seen to have great weight when we consider the corruption and the lack of attention to the public welfare that accompany the granting of franchises to corporations. The bribery of aldermen and the granting of valuable privileges without compensation are frequent occurrences. On the other hand, the facts that bad officers are sometimes elected in our cities, and that they ignore public interests, raise a very serious question whether they should be intrusted with the management of great industries, such as water and lighting plants and street-car systems.

[1] On this topic see "Government in State and Nation," pp. 33–36.

**Reasons for Poor City Government.** — Other arguments may be made on both sides of this question of municipal ownership; but there are fundamental reasons why the cities of the United States are, on the whole, poorly governed, which must receive consideration before this question can be settled. The conditions accounting for the evils of municipal government may be briefly stated as follows: (1) City governments are necessarily complex, and, in their administrative departments especially, a multitude of details must receive attention. Citizens find it difficult to understand these transactions and even more difficult to follow them closely. (2) City governments must spend vast sums of money, and this fact is a standing temptation to dishonest men both in and out of office. (3) The rapidity with which cities have grown has increased the difficulty of their problems. (4) Individuals and corporations have found it necessary to secure franchises from cities for the operation of important industries; this has opened many opportunities for corruption in city affairs. (5) The presence of large numbers of foreigners who are ignorant of governmental affairs has enabled corrupt politicians to exert great influence upon the voters in city elections.

**The Reform of Municipal Governments.** — Having reviewed the principal causes for the evils of municipal government, let us now consider some of the conditions that are necessary for bringing about reforms.

(1) National politics should be entirely separated from city affairs. It may be impossible to prevent the nomination of candidates by the regular political parties; but

within each party local issues, not national, should determine the selection of candidates. At the polls the voter should cast his ballot independently of party considerations.

(2) Public interest in municipal affairs and the existence of a strong civic pride are conditions that are essential to the election of good officers and to the purity of city government.

(3) Before we can have better city governments every citizen must recognize his *responsibility*, not only on election day, but on every occasion when he can help in the work of detecting wrong, punishing corrupt officials, and encouraging better things in all departments of city life. This means unselfishness in one's attitude toward the public welfare; it means willingness to sacrifice time and effort in the public service. The example set by many eminent persons who have devoted themselves unselfishly to the accomplishment of reforms in our great cities may well be imitated by every citizen in the smaller affairs of his city or his ward. And the younger generation of citizens, who are yet students in the public schools, may exert no little influence toward the betterment of the city; and they may aid in the formation of that better public sentiment without which no improvement in our standards of municipal government is possible.

## SUPPLEMENTARY QUESTIONS.

**Outline for the study of your city government.**

**1. Was the city organized under a general law of the State, or was it granted a special charter? Does the legislature enact special laws for the city?**

2. The mayor: term, salary. What are his principal powers? Should his responsibility be increased?
3. The council or board of aldermen: number of members, term of office, manner of election, compensation?
4. The municipal courts and judges.
5. Administrative departments: make a complete list of these. Are they controlled by boards or by single officers? How do the officers obtain their positions? Are they paid salaries? Of what business does each have charge?
6. How are the water, lighting, and street-car plants managed? Do you believe in the municipal ownership of any of them? Give reasons for your opinion.
7. How do police officers receive appointment? If an officer fails to enforce an ordinance, what course would you take to secure its enforcement?
8. Are party lines closely adhered to by voters in city elections? Are independent party organizations formed? Are they successful?
9. What can you learn of reform movements that have taken place in your city's history? Give the causes for the success or failure of these.
10. What is the cost of your city government per annum? Is it economically administered? What are the principal items of expense? Has the city other sources of revenue besides taxation?
11. What are the excellent features of your city's government? What are its faults? How may the latter be corrected?
12. Mention some ways in which students can assist in bringing about better conditions in your city.

## REFERENCES.

1. Reinsch, Young Citizen's Reader, 80-83. Hoxie, How the People Rule, 63-83. Dole, Young Citizen, 93-108; 132-139.

# PART II.

# THE NATIONAL GOVERNMENT.

## CHAPTER V.

### EVENTS LEADING TO THE FORMATION OF THE UNION.

**Colonial Relations.** — Why was union so long delayed? How was it finally accomplished? These are always questions of great interest to the student of American government. We note the general indifference toward union among the colonies before the Revolutionary War. This may be partially accounted for by the fact that each colony had its own separate government, and was jealous of all outside interference. Lack of good roads and methods of travel made extensive communication between the scattered settlements difficult. Prejudice against strangers, and especially those of a different religious belief, was common. Bonds of sympathy, however, between the citizens of different colonies were not wholly lacking. Their language and customs were mainly English. Their chief desire was to develop a government according to their own plans. Common interests were at times created because of the necessity for providing protection against their Indian, French, and Dutch foes. In general, we may

say, confederation was early brought about through need for defense, but union has been the result of two centuries and a half of growth.

**Union of the New England Colonies, 1643.** — A notable attempt was made to form a confederation among the colonies in 1643. It is known as the New England Confederation, and included Massachusetts Bay, New Plymouth, Connecticut, and New Haven colonies. Their united energies were necessary to furnish protection against dangers from the Indians. The Dutch and French also tended constantly to encroach upon their rights. The governing body of this confederation was a board of commissioners. In the annual meetings of the commissioners, two being sent from each colony, questions of war, relations with the Indians, and other matters of mutual interest were discussed. But this central government possessed advisory powers only. The colonies were to provide for their own local government. The confederation became constantly weaker, and was finally dissolved in 1684. Seventy years were to elapse before the call was sent out for a meeting of delegates from all the colonies at Albany, but the influence of the New England Confederacy was felt, no doubt, during that period.

**The Albany Congress, 1754.** — Open hostilities with their enemies became more and more frequent. From the outbreak of King William's War, in 1689, to 1754, the date of the Albany Congress, there were at least a dozen intercolonial conferences called to consider means for the com-

mon defense. Plans for union were also prepared. The most interesting is that of William Penn. In it the word "Congress" is used for the first time in connection with American affairs. As the final struggle with France for the possession of America was about to begin, a "Congress" of twenty-five of the leading men from seven different colonies met at Albany. They were called, primarily, for the purpose of making a treaty with the Iroquois Indians. This object secured, the resolution was then unanimously adopted that "A union of all the colonies is at present absolutely necessary for security and defense." Franklin's famous plan providing for a permanent federation of all the colonies was also adopted. When submitted to the colonies, it failed to receive the ratification of a single one. Nor was it acceptable to the English government. Said Franklin, "The assemblies all thought there was too much prerogative, and in England it was thought to have too much of the democratic."

**The Stamp Act Congress, 1765.** — After the passing of the stamp act by the English government, the Massachusetts house of representatives invited the other colonial assemblies to send delegations to a general congress. Nine colonies responded by sending twenty-eight men to the congress in New York City, October 7, 1765.[1] During the session of two weeks, these delegates drafted petitions to the English government and declared that the rights of the colonists were the same as those of the natural-born

[1] Virginia, New Hampshire, Georgia, and North Carolina sympathized with the movement, but did not send delegates.

subjects of England. It is noteworthy that representatives had again assembled on the motion of the colonists themselves. The growth of common interests was well expressed by Christopher Gadsden of South Carolina, when he said: "There ought to be no New England man, no New Yorker, known on the continent; but all of us Americans."

**Committees of Correspondence.** — Nine years were to go by before the meeting of another congress, but the colonists were prepared for a united effort at the end of this period. No sooner were the contents of the Townshend acts of 1767 known than Massachusetts issued a circular letter to the other colonies, asking for combined action against all such unconstitutional measures. The other colonial assemblies agreed with Massachusetts. Another movement which made the Revolution possible was begun by Samuel Adams. In November, 1772, he prevailed upon the Boston town meeting to appoint a committee which should carry on a correspondence with committees organized in other towns of that colony. Rights and grievances were the chief subjects for consideration. Other colonies adopted this plan. Led by Virginia, the idea was carried one step further, and in 1773 were formed committees of correspondence between the different colonies. Thus they were prepared for united action in the First and Second Continental Congresses.

**The First Continental Congress, 1774.** — When the coercive acts of 1774 had been passed, Massachusetts, now in greatest need, called for a congress of all the colonies.

Delegates from all, Georgia[1] excepted, assembled at Philadelphia, September 5, 1774. In the Declaration of Rights, and in the adoption of the Articles of Association, they gave full expression to colonial sentiment. They commended the resistance of the people of Massachusetts. They declared that all "America ought to support them in their opposition," if force should be used in carrying out the measures of Parliament.

**The Second Continental Congress, 1775.** — Before adjourning, the First Continental Congress provided for the meeting of another congress, in May, 1775, unless the causes for colonial grievances should be earlier removed by the English government. But other measures of repression were quickly passed, and before the Second Continental Congress met, the battle of Lexington had been fought and the American forces were blockading Boston. This congress convened in Philadelphia May 10, 1775, and continued in session, with adjournments from time to time, until May 1, 1781. All of the colonies were represented. Like previous congresses, this was, at first, merely an advisory body, but necessity compelled it to act as a real government. It took control of military affairs, provided for a currency, threw open American ports to the ships of all nations, and did whatever else the necessities of the time seemed to demand. Having been appealed to for advice, this congress took a most notable position in recommending that new forms of government should be established in the several States. By the year 1777 ten States

[1] Georgia was in sympathy with this movement.

had framed new constitutions. It furthered independence by appointing a committee to draft resolutions based on the ideas of independence then everywhere present. The Declaration of Independence was the result.

**The Articles of Confederation.** — Franklin early saw the need for a more effective government than that of a revolutionary assembly. On July 21, 1775, he presented to Congress a plan for "perpetual union." Nearly a year elapsed before a committee was appointed to prepare some form for confederation to be entered into between the colonies. Another period of a year and five months was to go by before the report of this committee was adopted by the Continental Congress. It was then submitted to the State legislatures for approval. After three years and a half, on March 1, 1781, Maryland, the last State, was induced to ratify the Articles of Confederation. The adoption of these articles is one of the most important events in the history of our nation. While the Articles of Confederation must always be regarded as a weak instrument of government, we must not forget that the Continental Congress was then working out problems in the province of government that were almost wholly new. The solution, faulty as it was, went far to establish the place of the written Constitution as a basis for government.

Said John Fiske: "Almost everything else in our fundamental institutions was brought by our forefathers in a more or less highly developed condition from England; but the development of the written Constitution, with the consequent relation of the courts to the law-making power, has gone on entirely upon American soil."

**Practical Working of the Government.** — Conditions soon proved the articles unsatisfactory. The States were almost independent of the central government. There was no separate executive power to enforce, and no judiciary to interpret the laws. The nation was deep in debt, and without means for payment. Paper money of the period was worthless, and debtors were rebellious. Disputes between the various States brought them to the verge of civil war. Each State had its own system of duties and imposts, which led to great confusion in commerce. No important resolution could be passed in Congress without the votes of nine States. No amendment was possible, except by the votes of all the States. Congress became constantly weaker as various members resigned to accept positions under State authority. In that most dangerous period of our history, extending from 1783 to 1788, aptly called the "critical period," it became constantly more apparent that government under the Articles of Confederation was a failure. Fortunately, in this hour of gloom, there came forward Washington, Hamilton, Madison, and other leaders, who were prepared, if need be, to make compromises, but who were determined to preserve the elements of the union already secured.

### SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. **How was the stamp act regarded in the different colonies as shown by the addresses made and resolutions offered? Hart, Contemporaries, II, 395–411; Tyler, Patrick Henry (American Statesmen), Chapters 5 and 6.**
2. **Do you know of other instances in our history where a stamp act has been passed? How was it regarded? In what ways was it different from that of 1765?**

3. What was the origin of the committees of correspondence and how did they aid in unification? Sloane, The French War and the Revolution, 161, 162; Hart, Formation of the Union, 57.
4. Analyze the Declaration of Independence, and select from it the causes for the Revolution.
5. Why was the adoption of the Articles of Confederation so long delayed? Hart, Contemporaries, II, 539–543; Fiske, The Critical Period, 93, 95; Walker, The Making of the Nation, 6; Hart, Formation of the Union, 93–95.
6. Read the Articles of Confederation (Appendix B).
   (*a*) How was the Congress composed? (Art. V.)
   (*b*) The number necessary for a quorum? (Art. X.)
   (*c*) The powers of Congress? (Art. IX.)
   (*d*) Powers of the separate States (Art. VIII.)
7. Defects of the Confederation. Hart, Contemporaries, II, 591–603.
8. What was the attitude toward union during the period 1783–1788? Were there notable bonds of union even at this time? What other influences have increased this sentiment? Fiske, Critical Period, 55–63; Walker, The Making of the Nation, 7, 8.
9. President Roosevelt said, in an address delivered April 9, 1902, at Charleston, S. C., "When four years ago this nation was compelled to face a foreign foe, the completeness of the reunion became instantly and strikingly evident." What is his meaning? How does the statement illustrate the point emphasized in this chapter, that a common danger produces union?
10. Describe the character of the money used in 1783 and succeeding years. What was its influence? Fiske, Critical Period, 162–186.

## CHAPTER VI.

### THE CONSTITUTIONAL CONVENTION.

**Events Leading to the Constitutional Convention.** — Among the many difficulties that arose during the period of the confederation were constant disputes between Virginia and Maryland over the navigation of the Potomac River and Chesapeake Bay. Finally, in March, 1785, commissioners from these States met at Alexandria to consider these difficulties. The outcome of the meeting was that Virginia proposed a convention and called for delegates from all of the States to meet to consider how commerce should be controlled. Delegates from five States only were present at Annapolis on the day appointed, September 11, 1786. Nothing permanent could be accomplished with so few States represented. Before adjourning, however, they agreed to a resolution, framed by Alexander Hamilton, which proposed the calling of a convention at Philadelphia to amend the Articles of Confederation.

**The Federal Convention, 1787; Delegates.** — All of the States, Rhode Island excepted, were finally represented in this, one of the most notable conventions in the history of the world. Among the fifty-five delegates assembled were many who had already been conspicuous in public affairs.

They were the choice men of the States from which they came. Twenty-nine of the number were university men. Washington and Franklin were present, and Washington was unanimously chosen president of the convention. Neither of these men took an active part in the debates; but their presence gave inspiration to the other members, and they had untold influence at critical times. Among the ablest members were Alexander Hamilton of New York; James Madison of Virginia; Oliver Ellsworth and William S. Johnson of Connecticut; James Wilson and Gouverneur Morris of Pennsylvania; Rufus King of Massachusetts; and Charles C. Pinckney of South Carolina.

**Our Knowledge of the Convention.** — The Convention lasted from May 25 to September 17, 1787. The sessions were secret. Fortunately we are not dependent on the secretary's report alone for our knowledge of the meetings.[1] Mr. Madison seemed to understand the full meaning of the convention from the first, and decided to give an accurate account of the proceedings. He wrote: "Nor was I unaware of the value of such a contribution to the fund of materials for the history of a Constitution on which should be staked the happiness of a people great even in its infancy, and possibly the cause of liberty throughout the world." His notes were purchased by the government from Mrs. Madison, in 1837, for the sum of thirty thousand dollars. They were published as "Madison's Journal of the Constitutional Convention."

**Plans for a Government; Virginia Plan.** — The magnitude of the labors of this convention can be understood only when we read the report of the discussions as given by Madison. It was at once determined that no time should be lost in patching up the articles, but that a new Con-

[1] It was published in 1819 as a part of Volume I of "Elliot's Debates."

stitution should be formed. Two sets of resolutions were early submitted, each setting forth a plan of government. The Virginia plan was largely the work of Mr. Madison. It provided for the establishment of a national government with supreme legislative, executive, and judicial powers. The legislative power was to be vested in a Congress of two separate houses. The executive was to be chosen by both houses of Congress and the judiciary by the Senate. Representation in both houses of Congress was to be based on population or the contributions to the support of the government. This scheme was fiercely attacked by the delegates from the small States, for it would clearly give control into the hands of the more powerful States.

**The New Jersey Plan.** — The New Jersey plan, presented by Mr. Patterson of that State, was agreed upon by the members from Connecticut, New York, New Jersey, Delaware, and Maryland. This Small-State plan, so called, provided for a continuance of the government under the Articles of Confederation. They were to be revised in such a manner as to give Congress the power to regulate commerce, to raise revenue, and to coerce the States. The Small-State party insisted that the Virginia plan, if adopted, would destroy the sovereignty of the States. They would rather, they said, submit to a foreign power than be deprived of equality of suffrage in both branches of the legislature. Madison, Wilson, King, and other leaders of the Large-State party declared that the basis for the new government was to be the people and not the States; that it would be unfair to give Delaware as many representa-

tives as Virginia or Pennsylvania. After many days of fruitless debate, a compromise, sometimes called the "First Great Compromise," was presented and finally adopted. This provided that the House of Representatives should be composed of members elected on the basis of population. In the Senate, large and small States were to be equally represented.

**The Slavery Problem; Second Compromise.** — How was the number of the representatives to be found? Were slaves to be counted a part of the population? A heated debate arose over these questions. The delegates from South Carolina maintained that slaves were a part of the population and as such should be counted. The answer was made that slaves were not represented in the legislatures of that and other States; that slaves were regarded in those States merely as so much property, and as such ought never to be represented. Finally, when it seemed that the work of the convention must fail, a compromise, known as "the three-fifths compromise," was accepted. This provided that all free people should be counted and three-fifths of the slaves.

**The Third Compromise.** — Slave-trade and commerce were the causes for a third compromise. South Carolina and Georgia desired to have the importation of slaves continued. Some of the other Southern States and the Northern States generally were opposed. The New England members were anxious that the National government should have complete control of foreign commerce. This

was resisted by some of the Southern delegates, who feared that the importation of slaves might thereby be prohibited. Finally, a compromise was agreed upon which gave Congress power over foreign and interstate commerce, but forbade any act which might prohibit the importation of slaves before 1808. It was also agreed that a tax of ten dollars each might be laid on all slaves imported. While the entire Constitution may be said to be made up of compromises, the agreement upon these three rendered the further work of the convention possible.

**Signing the Constitution.** — Gouverneur Morris was selected to give the document its final form. The clear, simple English used is due largely to him. After thirty-nine members, representing twelve different States, had signed the Constitution, the convention adjourned. While the last signatures were being written, Franklin said to those standing near him, as he called attention to a sun blazoned on the back of the President's chair: "I have, often and often, in the course of the session, and the vicissitudes of my hopes and fears as to its issue, looked at that behind the President, without being able to tell whether it was rising or setting; but now, at length, I have the happiness to know that it is a rising and not a setting sun."

**Difficulties of Ratification.** — The convention submitted the Constitution to Congress. Here, for eight days, it was attacked by its opponents. Finally, Congress passed it on to the State legislatures. It was sent by them to State conventions elected by the people. This ratification was

provided for by Article VII of the Constitution, as follows: *The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.*

The period included between September 28, 1787, when Congress transmitted the Constitution to the State legislatures, and June 21, 1788, when New Hampshire, the last of the necessary nine States, ratified, was one of the most critical in our history. Political parties, in a truly National sense, were formed for the first time. Among the leaders who defended ably the views of those who opposed the ratification of the Constitution were Patrick Henry, Richard Henry Lee, Elbridge Gerry, and George Clinton. It was urged that there was no bill of rights,[1] that the President would become a despot, and that equality of representation in the Senate was an injustice to the larger States. "Letters from the Federal Farmer," prepared for the press of the country by Richard Henry Lee, set forth clearly the views of the Anti-Constitutional party.

**"The Federalist."** — No influence was more noteworthy in bringing about ratification than a series of political essays afterward collected under the name of "The Federalist." It is considered to-day the best commentary on the Constitution ever writtten.

[1] A bill of rights, in which the idea of the rights of man were set forth, was a significant part of nearly all the State constitutions. Englishmen, generally, had been familiar with the formal statement of these principles since 1689, when William and Mary accepted the Declaration of Rights as a condition of their receiving the crown of England. During the same year Parliament gave the Declaration of Rights the form of a statute, under the name of the Bill of Rights. Among other rights it demanded that the king, without the sanction of Parliament, should not raise an army, secure money, or suspend the laws; also, that the right of petition, freedom in the exercise of religion, and equality under the laws were to be granted all subjects.

Alexander Hamilton originated the plan, and wrote 51 of the 85 numbers. James Madison wrote 29, and John Jay 5.

**The Influence of Washington.** — Washington was again a giant in his support of the Constitution. In a letter to Patrick Henry he early sounded an effective note of warning against anarchy, expressing the very fear that finally led many in the conventions to vote for the Constitution. He wrote: "I wish the Constitution which is offered had been more perfect; but it is the best that could be obtained at this time, and a door is open for amendments hereafter. The political concerns of this country are suspended by a thread. The convention has been looked up to by the reflecting part of the community with a solicitude which is hardly to be conceived, and if nothing had been agreed upon by that body, anarchy would soon have ensued, the seeds being deeply sown in every soil."

**Ratification Secured.** — Delaware, the first State, ratified December 6, 1787, without a dissenting vote. Pennsylvania, New Jersey, Georgia, and Connecticut followed quickly. Much depended on the action of the Massachusetts convention. After prolonged debate, the delegates were finally influenced by the statement that amendments might be made, and they ratified the Constitution by a vote of 187 to 168. The ninth State was secured in the ratification by New Hampshire, June 21, 1788. It was not until November 21, 1789, however, that North Carolina voted to accept the Constitution. Rhode Island held out until May 29, 1790.

**The New Government Put into Operation.** — When the ratification of the ninth State had been secured, Congress appointed a special committee to frame an act for putting the Constitution into operation. It was enacted that the first Wednesday in January should be the day for appoint-

ing electors; that the electors should cast their votes for President on the first Wednesday in February, and that on the first Wednesday of March the new government should go into operation. It was not until April 1 that a quorum was secured in the House of Representatives, and in the Senate not until April 6. The electoral votes were counted in the presence of the two houses on April 6.[1] The inauguration of President Washington did not take place, however, until April 30.

**Origin of the Constitution.** — Before making a study of this epoch-making document, let us inquire briefly as to its origin. An analysis of the Constitution shows that there are some provisions which are new and that English precedent had an influence. The main features, however, were derived from the constitutions of the States with whose practical workings the delegates were familiar. The following well-known statement is an excellent summary: "Nearly every provision of the Federal Constitution that has worked well is one borrowed from or suggested by some State constitution; nearly every provision that has worked badly is one which the convention, for want of a precedent, was obliged to devise for itself."

**Authority and Objects of the Constitution.** — It was evidently the intention of the framers of the Constitution to found a government deriving its authority from the people rather than from the States. The purposes for which

[1] New York did not choose electors. North Carolina and Rhode Island, as we have seen, had not ratified the Constitution

this was done are set forth in the following enacting clause, commonly called the preamble: —

"*We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.*"

This clause was attacked vigorously by the opponents of the Constitution, and especially in the Virginia and the North Carolina conventions. Said Patrick Henry: "And here I would make this inquiry of those worthy characters who composed a part of the late Federal Convention. . . . I have the highest veneration for those gentlemen; but, sir, give me leave to demand what right had they to say, 'We, the people'? . . . Who authorized them to speak the language of, We, the people, instead of, We, the States? If the States be not the agents of this compact, it must be one great, consolidated, national government of the people of all the States." It was argued, on the other hand, by Randolph, Madison, and others, that the government, under the Articles of Confederation, was a failure, and that the only safe course to pursue was to have a government emanating from the people instead of from the States, if the union of the States and the preservation of the liberties of the people were to be preserved.

## SUPPLEMENTARY QUESTIONS AND READINGS.

1. For an account of the members of the convention, see Hart, Contemporaries, III, 205–211.
2. For the contributions of the individuals and the classes of delegates, see Walker, The Making of the Nation, 23–27; Fiske, Critical Period, 224–229.
3. Discuss the peculiar conditions in Massachusetts. Give the arguments presented. Walker, 56–57; Fiske, Critical Period, 316–331.
4. How was the Constitution regarded in Virginia? Walker, 58, 60; Fiske, Critical Period, 334–338.
5. What was the attitude of the New York Convention toward the Constitution? Fiske, Critical Period, 340–345.
6. What objections were made against the Constitution in North Carolina? Hart, Contemporaries, III, 251–254.
7. What would have been the status of North Carolina and Rhode Island if they had not ratified? Walker, 73, 74; Hart, Formation of the Union, 132, 133.
8. Show the influence of the State constitutions on the Federal Constitution. James and Sanford, Government in State and Nation, 117.
9. For other questions on the material in this chapter, see Fiske, Civil Government, 211, 212; James and Sanford, Government in State and Nation, 135, 136, 137.

## CHAPTER VII.

### ORGANIZATION OF THE LEGISLATIVE DEPARTMENT.

#### ARTICLE I.

**A Congress of Two Houses.** — Section 1. *All legislative powers, herein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.*

In the Constitutional Convention, the Pennsylvania delegates were the only ones who objected to the formation of a legislative body having two houses. It was believed that with two houses one would be a check upon the other, and that there would be less danger of hasty and oppressive legislation. Another reason for the formation of a congress having two houses was that the colonists were familiar with this kind of legislature. It existed in all of the States, Pennsylvania and Georgia excepted.

**Term of Members and Qualifications of Electors.** — Section 2, Clause 1. *The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.*

A short term for representatives was agreed upon, for

it was the design to make them dependent on the will of the people. The question frequently arises, therefore, ought representatives to be compelled to receive instructions from those who elect them? May we not agree that our legislation would often be more efficient if the welfare of the nation were considered, rather than what seems, for the moment, to be only the concern of a district or even a State? Securing the best interests of all may mean at times, also, the sacrifice of mere party principles.

**Who May Vote for Representatives.** — By the words *people* and *electors* is meant voters. With the desire to make the House of Representatives the more popular branch, it was decided to grant the right of voting for a representative to any person who might be privileged to vote for a member of the lower house of the legislature of his State. The freedom of a State to determine what these qualifications are is limited only by the provisions of the Fifteenth Amendment: —

Amendment XV. *The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.*

This amendment was proposed by Congress in February, 1869, and was declared in force, March 30, 1870. It was for the purpose of granting more complete political rights to the negroes, recently declared, by Amendment XIV, to be citizens.

**Method and Time of Choosing Representatives.** — The Constitution prescribes that representatives shall be elected

by the people. Congress has provided that representatives shall be chosen on the Tuesday next after the first Monday in November of the even-numbered years.[1] Congress has also decreed that representatives shall be chosen by districts; but the State legislature has complete control of the districting of its State. However, Congress has declared that these districts shall be composed of contiguous territory, and contain, as nearly as practicable, an equal number of inhabitants. Now, usage has defined territory to be contiguous when it touches another portion of the district at any one point. As a result of this questionable interpretation, some States have been divided into districts of fantastic shapes, to promote the interests of the party having the majority in the State legislature.[2]

**Proportional Representation.** — Proportional representation, which is coming into favor in these days, would doubtless do much toward remedying this abuse. According to the present system of electing representatives by districts, large minorities of voters are not represented. Numerous plans of "Proportional Representation" have been advocated. One such plan is in operation in Illinois[3] for the election of members to the State house of representatives. Each district elects three members on a general ticket. The voter may give one vote to each candidate, or one and a half votes to each of two candidates, or three votes to a single candidate. Therefore, the minority, by concentrating their votes on one candidate, may elect a representative to the legislature, when under the district system they would not be represented.

[1] The only exceptions to this rule are: Maine holds its election on the second Monday in September, and Vermont on the first Tuesday in November.

[2] This process is called "gerrymandering." See, also, "Government in State and Nation," pp. 135, 136.

[3] On proportional representation, read "Government in State and Nation," pp. 14, 15.

**Qualifications of Representatives.** — Section 2, Clause 2. *No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.*

In the original States there was great diversity of qualifications for members of the lower houses of their legislatures. But some uniform system was necessary for the National organization, and so the few simple requirements of this clause were introduced. It is understood, however, that the States may not add other qualifications. While a representative must be an inhabitant of the State in which he is chosen, he need not, so far as the Constitution requires, be an inhabitant of the district. But the instances have been few in which a member of the House has not been also an inhabitant of the district which he represents. According to the English system of representation, a member of the House of Commons frequently represents a borough or county in an entirely different part of the kingdom from that of which he is an inhabitant.

May the House refuse to admit a person duly elected and possessing the necessary qualifications? This question arose in the 56th Congress, in the case of Brigham Roberts of Utah. He was finally excluded.

**Present System of Apportioning Representatives.** — Section 2 of Amendment XIV contains the rule of apportionment that is now in operation. This became a part of the Constitution, July 28, 1868.

*Representatives shall be apportioned among the several*

*States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.*

The second sentence of this section was framed in the belief that the States, rather than lose a portion of their representatives in Congress, would grant the right of suffrage to negroes already declared to be citizens. But proportional reduction of representatives was never put into practical operation, for before the next apportionment of representatives, Amendment XV became a part of the Constitution, and negro suffrage was put on the same basis as white. However, the enforcement of Section 2 of Amendment XIV has been strongly urged in our own time. This is because it is estimated that many thousands have been disfranchised through the restrictions on the right of suffrage found in several of our State constitutions. Some require an educational test and others a property qualification for voting.

The "Indians not taxed" doubtless refers to those Indians who still maintain their tribal relations or who live

on reservations in the several States. Their number, according to the census of 1910, was 129,518.

**Early Apportionment.** — The number of representatives to which each of the States was originally entitled is given in Section 2, Clause 3, of the article we are now considering as follows: —

*Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.*

The three-fifths rule was rendered void by the adoption of Amendment XIII, which abolished slavery, since there were no longer the "other persons." That part of the clause which provides for the laying of direct taxes is still in force.

**The Census.** — In order to carry out the provision of the Constitution, an "actual enumeration" was made in 1790. Since that date there has been a census every ten years. The taking of the census and the compilation and publication of the statistics connected with it are under the supervision of the director of the census. Work on the thirteenth census was begun April 15, 1910, and required some 65,000 enumerators, 3500 clerks, and 1800 special agents. The cost was some $12,000,000. The most important volumes found in the report are those on population,[1] manufactures, and agriculture. The taking of the census will, in the future, be more economical and efficient because of the establishment of the permanent census bureau by an act of Congress in 1902.

**Ratio of Representation.** — The Constitution provided that there should be 65 members in the first House of Representatives. After the first census, Congress agreed that there should be one representative for each 33,000 of the population. This gave a house with 105 representatives. From that time the ratio of representation has been changed every ten years. Otherwise, with the rapid increase in population, the House would soon become too large. The ratio adopted by the act of 1911 was one representative to 211,877 people.[2] After March 4, 1913, therefore, there will be at least 433 members, an increase of 42.[3]

**Members from New States.** — Should a new State be admitted after the apportionment is made, its representatives are always additional to the number provided for by law. The Constitution provides that each State shall have at least one representative. If this provision had not been made, the States of Arizona, Delaware, Nevada, and Wyo-

[1] The population of the United States, according to the first census, was 3,929,214. The population in 1910 was 91,972,266; including the possessions and dependencies, 101,000,000.

[2] For the method of apportionment, see "Government in State and Nation," p. 128.

[3] The number of members in the English House of Commons is 670; in the French Chamber of Deputies, 584; and in the German Reichstag, 396.

ming, each having a smaller population than the ratio adopted in 1910, would not be represented.

**Territorial Delegates.** — The organized Territories are each entitled to send a delegate to the House of Representatives. He is allowed to speak on any question that has to do with his Territory, but may not vote.

**Vacancies.** — Section 2, Clause 4. *When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.*

When a vacancy occurs in the representation from any State on account of death, expulsion, or for other cause, it is made the duty of the governor of the State in which the vacancy exists to call for a special election in that district to choose a representative for the remainder of the term.

**Officers.** — Section 2, Clause 5. *The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.*

The speaker, who is the presiding officer, has always been a member of the House, but the Constitution does not say that he *shall* be. The other officers are the clerk, sergeant-at-arms, doorkeeper, postmaster, and chaplain, none of whom is a member of the House.

**Number and Term of Office of Senators.** — Section 3, Clause 1. *The Senate of the United States shall be composed of two senators from each State, elected by the people thereof, for six years; and each senator shall have one vote. The*

*electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.*

As we have seen, the provision that there should be two senators from each State was the result of a compromise. Consequently, New York and Pennsylvania have the same number as Delaware and Nevada.[1] The term of six years for senators was likewise a compromise measure. There were members of the convention who favored three years; others wanted nine years, and Hamilton desired that the term should be during good behavior. Many States have practically lengthened the prescribed term by the wise policy of returning acceptable senators for more than one term.

Prior to April 8, 1913, when the Seventeenth Amendment became a part of the Constitution, through ratification by the requisite votes of three-fourths of the State legislatures, senators were chosen by the State legislatures. For years the demand for such an amendment was insistent. More than two-thirds of the State legislatures had gone on record in favor of such a reform. The House of Representatives had passed such a resolution a number of times, but the requisite two-thirds vote could not be secured in the Senate. The leading reasons for the amendment were: the frequent deadlocks in the legislatures, thus interrupting the course of regular legislation, and the use of bribery.

**Classes of Senators and Vacancies.** — Section 3, Clause 2. *Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be,*

[1] The Senate now contains 96 members; the English House of Lords, 560; and the French Senate, 300.

*into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; and of the third class, at the expiration of the sixth year; so that one-third may be chosen every second year. When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies. Provided, that the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.*

*This amendment shall not be so construed as to affect the election or term of any senator chosen before it becomes valid as part of the Constitution.*

This provision makes the Senate a permanent body, since only one-third of the members go out of office every two years. In the first session of the first Congress, the senators were divided into three classes. It has been the custom to place the senators from new States in different classes. This is done in order to preserve, so far as possible, the equality of numbers in each class. Besides, a State is thus enabled to keep one man of experience in the Senate. When a new State is admitted, the senators from that State determine by lot, drawn in the presence of the Senate, which classes they are to enter.

**Qualifications of Senators.** — Section 3, Clause 3. *No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State from which he shall be chosen.*

The reasons for requiring different qualifications in senators from those of representatives is expressed in "The Federalist" as follows: "The propriety of these distinctions is explained by the nature of the senatorial trust, which, requiring greater extent of information and stability of character, requires at the same time that the senator should have reached a period of life most likely to supply these advantages." The attitude of Americans toward the Senate to-day differs from that manifest during the first quarter century of our history. Has the Senate degenerated is a question frequently asked. The presence in that body of numerous millionaires has also excited unfavorable comment. There have been two instances only in which senators have been disqualified because of inadequate citizenship.

**Times and Places for Electing Senators and Representatives.** — Section 4, Clause 1. *The times, places, and manner of holding elections for senators and representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the place of choosing senators.*

It is desirable that Congress should have the *final* authority in providing for the election of its own members, because the very existence of the Union might otherwise be left, at times, to the whims of the State legislatures.

**President of the Senate.** — Section 3, Clause 4. *The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.*

**Other Officers.** — Section 3, Clause 5. *The Senate shall choose their other officers, and also a President pro tempore, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.*

The Vice-President of the United States is the presiding officer of the Senate. He cannot take part in debates, and has no vote unless there be a tie. In marked contrast with the power of the speaker, he cannot name the committees, and has no direct authority in legislation. Indeed, the office is regarded as one of so little influence that it is sometimes difficult to secure, as candidates for it, men of recognized prominence.

The other officers of the Senate are secretary, chief clerk, sergeant-at-arms, chaplain, postmaster, librarian, and doorkeeper, none of whom is a member of the Senate. It is desirable, in the absence of the Vice-President, that the Senate should have a presiding officer. At the opening of the session, therefore, that body chooses from its own members a president *pro tempore*. He may vote on any question, but cannot cast the deciding vote in case of a tie.

**When Congress Meets.** — Section 4, Clause 2. *The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.*

As we have already seen, representatives are elected for a term of two years. This period defines the length of a Congress. Representatives, as we know, are chosen on the first Tuesday after the first Monday in November. Now the term of office of a representative begins legally

on the fourth of March succeeding the time of his election.[1] The first regular session of the Congress to which he was elected does not begin until the first Monday of the following December, or thirteen months after the election. It would seem desirable that the members should be given an earlier opportunity to express themselves on the issues upon which they have been chosen.

**Sessions of Congress.** — Each Congress has two regular sessions. The first is called the "long session," for its length is not determined by a definite date of adjournment. It usually lasts until midsummer and may not extend beyond the first Monday in December, the time fixed for the beginning of the next session. The second, or "short session," cannot extend beyond 12 M. of March 4, the time set for a new Congress to begin. The President may convene Congress in special session.

**Organization of Congress.** — The first Monday in December of each second year is a notable day in Washington, for the formal opening of a new Congress is regarded as an important event. The House of Representatives must go through the entire process of organization. To the clerk of the preceding House are intrusted the credentials of the members, and from these he makes out a list of those who are shown to be regularly elected. At the hour of assembly he calls the roll from this list, announces whether or not a quorum is present, and states that the first business is to elect a speaker. After his election the speaker takes the oath of office, which is administered by the member who has had the longest service in the House. The speaker then administers the oath to the members by States. The election of the chief clerk and the other officers follows, after which the House is said to be organized.

[1] The limits of the 63d Congress will be March 4, 1913, to March 4, 1915.

The Senate is a "continuing body," and no formal organization is necessary. At the opening of a new Congress the Vice-President calls the Senate to order and the other officers resume their duties. After the president *pro tempore* has been chosen, the newly elected members are escorted to the desk in groups of four, and the oath is administered by the president of the Senate. Each house, when organized, notifies the other of the fact, and a joint committee of the houses is appointed to wait upon the President and inform him that quorums are present and are ready to receive any communication he may desire to send.

The House of Representatives occupies a large hall in the south wing of the capitol. The desks of the members are arranged in a semicircle about that of the speaker, with the Republicans on his left and the Democrats on his right. When a member gains the floor, he speaks from his own desk or from the space in front of the speaker's desk. Unless the question is one of importance, but little attention is paid to the course of debate. Consequently a visitor can hear only with great effort because of the constant din produced by the shuffling of papers, clapping of hands for pages, etc. The real work of Congress, as we shall see, is done in committees. The Senate occupies a hall at the opposite end of the capitol. It is, of course, much smaller than that occupied by the House, but is similarly arranged. In general, the proceedings on the floor of the Senate are conducted in a much more orderly manner than is usual in the House.

## SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. **What is the number of the present Congress? Give the dates for the beginning and end of each session.**
2. **In the States which have woman suffrage, may women vote for representatives?**
3. **It is not required by law that a representative shall reside in the district that he represents, but it is an established custom. What are its advantages and disadvantages? Compare with the English practice. Bryce, American Commonwealth, I, Chapter 19.**
4. **Are the States which allow women the right to vote justified in the enactment of their suffrage laws?**

5. Ought Section 2, Amendment XIV, to be enforced? Rev. of R's, 22:273–275, 653, 654; 24:649–651; Forum, 31:225–230; 32:460–465; N. Am. Rev., 168:285–296; 170:785–801; 175:534–543; Outlook, 69:751.
6. State the points of likeness and of difference between the House of Representatives and the House of Commons. N. Am. Rev., 170:78–86.
7. Give the number of representatives to which your State is entitled. Was the number increased in the last apportionment? How large is your Congressional district? Population?
8. Compare the area of your district with that of other districts in your State; also with the population of other districts. Compare the number of votes cast for representative in your district with the number cast in districts of other States in different sections of the country. How do you account for the variation? See New York World Almanac.
9. Some interesting facts connected with the apportionment of 1901 are given in the Forum, 30:568–577.
10. For the Reapportionment Law of 1901, see Outlook, 67:136.
11. For accounts of the methods by which a census is taken, see American Census Methods, Forum, 30:109–119. Census of 1910, Rev. of R's, 41:589–596; 404, 405.
12. Who are some of the best-known representatives and senators? For what reasons are they noted?
13. Who are the senators from your State? When was each elected?
14. Give the names of the speaker and of the president *pro tempore*.
15. Would you have voted for the Seventeenth Amendment? See Outlook, 67:559–604; 73:277–285; 386–392. For other references, see James and Sanford, Government in State and Nation, p. 137.

## CHAPTER VIII.

### POWERS AND DUTIES OF THE SEPARATE HOUSES.

#### I. Impeachment.

Article II, Section 4. *The President, Vice-President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.*

Article I, Section 2, Clause 5. *The House of Representatives shall . . . have the sole power of impeachment.*

Section 3, Clause 6. *The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.*

Section 3, Clause 7. *Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law.*

There have been but seven impeachment trials in the history of our government. Section 4 of Article II declares

who may be impeached. The expression "civil officer" does not include military and naval officers. They are subject to trial by court-martial. Members of Congress may not be impeached, since the Constitution authorizes each house to bring to trial and punish its own members. Clause 5 of Section 2, and Clauses 6 and 7 of Section 3, Article I, give the method of procedure against an officer who may be charged with "treason, bribery, or other high crimes and misdemeanors." The articles of impeachment preferred by the House of Representatives correspond to the indictment in a criminal trial. The manner of conducting an impeachment trial, in the Senate, resembles also a trial by jury.[1] That the "Chief Justice shall preside" during the trial of the President of the United States is a wise provision, because it is easy to presume that a Vice-President might be personally interested in the conviction of a President.

## II. The Quorum, Journal, and Freedom of Speech.

**Determination of Membership and Quorums.** — Section 5, Clause 1. *Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.*

In 1900 the right of a senator to a seat in the Senate was challenged by the citizens of his State on the ground

[1] See "Government in State and Nation," p. 159.

that his election was secured through bribery and corruption. In a memorial of the citizens forwarded by the governor, the matter formally came before the Senate. The case was referred to the Committee on Privileges and Elections, which unanimously reported, after careful deliberation, that the senator was not duly and legally elected by the legislature of his State. The committee found that he had obtained through illegal and corrupt practices more than eight votes which would otherwise have been cast against him and changed the result. Before a vote was taken in the Senate on this resolution the senator resigned his seat.

In the House the name of the person possessing the certificate of election signed by the governor of his State is entered on the roll of the House, but the seat may still be contested. Many cases of contested elections are considered by each new House. There were thirty-two seats contested in the 54th Congress. Such cases are referred to the Committee on Elections, which hears the testimony, and presents it to the House for final decision. Each of the cases when presented to the House consumes from two to five days which might otherwise be used for the purposes of legislation. The law provides that no more than $2000 shall be paid either of the contestants for expenses, but even then, it is estimated, these contests cost the government, all told, $40,000 annually. When the decision is rendered by the House, the vote is, in most cases, strictly on party lines, regardless of the testimony. In view of these facts, it has been suggested that the Supreme Court decide all contested elections.

**How a Quorum is Secured.** — If it appears, upon the count of the speaker, or upon the roll-call of the House, that a majority is not present, business must be suspended until a quorum is secured. Fifteen members, including the speaker, may be authorized to compel the attendance of absent members. This is accomplished as follows: the doors of the House are closed, the roll is called, and absentees noted. The sergeant-at-arms, when directed by the majority of those present, sends for, arrests, and brings into the House those members who have not sufficient excuse for absence. When a quorum is secured, business is resumed.

**Rules and Discipline.** — Section 5, Clause 2. *Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.*

**The Journal.** — Section 5, Clause 3. *Each house shall keep a journal of its proceedings and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.*

**Our Knowledge of Congressional Proceedings.** — As citizens in a republican government, it is our duty to keep informed on the problems which our representatives are called upon to solve. Means of gaining information are not wanting. The public galleries of both houses are usually

open to visitors. The official record of the proceedings of Congress is made known to the public through the Journal, which is read at the opening of each day's session. Reports of the debates do not appear in the Journal, but are published each day in the *Congressional Record*.

Another means of keeping constituents informed on the position of their representatives is through the recording in the Journal of the vote of each member when demanded by one-fifth of those present. In voting by the "yeas and nays," the clerk calls the roll of members and places after each name, "yea," "nay," "not voting," or "absent." The Senate rules specify this as the only method of voting. (Other methods of voting in the House are indicated on page 77.)

**Power to Adjourn.** — Section 5, Clause 4. *Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.*

If there is a disagreement between the two houses with respect to the time of adjournment, the President may adjourn them to such a time as he thinks proper. This right has never yet been exercised.

**Compensation and Freedom from Arrest.** — Section 6, Clause 1. *The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the sessions*

*of their respective houses, and going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.*

Should the members of Congress be paid a salary, or should the office be regarded as exclusively one of honor? These questions were discussed at length in the Constitutional Convention. Some of the delegates favored the English custom, by which members of Parliament receive no salary. It was finally concluded to adopt the provisions as given, in order that men of ability, though poor, might become members of the National Legislature.

By a law of 1789 the compensation of senators and representatives was fixed at six dollars per day and thirty cents for every mile traveled, by the most direct route, in going to and returning from the seat of government. Prior to 1873 this amount was changed several times by act of Congress. The compensation then agreed upon and until 1907 was $5000 per year, with mileage of twenty cents, and $125 per annum for stationery. The speaker received $8000 a year and mileage. The president *pro tempore* received the same amount while acting as president of the Senate.

To many people $5000 seemed a large salary, but the great expense of living in Washington renders the salary quite inadequate. Members have been known to pay more than their salaries for house-rent alone. Accordingly, in 1907, the salary of senators and representatives was increased to $7500 and that of the speaker and president *pro tempore* of the Senate to $12,000.

**To Hold Other Offices. Disqualification.** — Section 6, Clause 2. *No senator or representative shall, during the time for which he is elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been in-*

*creased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.*

The purpose of this provision seems to have been to remove the temptation on the part of Congressmen to create offices, or to increase the emoluments of those already existing, in order to profit by such legislation. The exclusion of United States officials from seats in Congress was due to the desire of appeasing State jealousy, which asserted that the National government would in this way secure an undue influence over the State governments. It is advocated, with good reason, that members of the Cabinet should be privileged to take part in the discussion of measures in Congress which pertain to their own departments. Alexander Hamilton asked for this privilege. It was refused because of the belief that he would exert too great influence over the members. The precedent thus established has always been retained.

But since executive officers are often invited to present their views before committees of Congress, they may, in this way, exert great influence upon legislation.

## CHAPTER IX.

### HOW LAWS ARE MADE BY CONGRESS.

**Methods of Procedure Developed by Custom.** — Very little can be learned directly from the Constitution concerning the actual methods employed in the enactment of laws by Congress. In both houses the ways in which business is conducted have been developed by custom; and they have changed from time to time according to circumstances. These methods of procedure are different from those in use when the government was new. The principal reason for this is found in the growth of the amount of business that Congress must consider; this, in turn, has been caused by the growth of population and wealth, and by the expansion of business relations throughout this country and with other nations.

I. *The Committee System.* — An understanding of this system is necessary in order that we may follow the steps taken in the making of laws. Two facts made the committee system necessary in the houses of Congress. (1) The number of members, especially in the House of Representatives, is so large that business cannot be transacted quickly by the entire body. (2) The number of bills introduced is so very great that it is impossible for either house to consider all of them; hence it is necessary that com-

mittees shall examine the bills and decide which are worthy of consideration.

In the long session of the 61st Congress more than 33,000 bills were introduced into the House. The number of committees in the House was 61, the membership varying from 5 to 19. The most important House committees are those on Ways and Means (which has charge of all bills for raising revenue), Appropriations, Banking and Currency, Foreign Affairs, and Military Affairs. In the Senate of the 61st Congress there were 72 standing committees. The number of members on a committee was in most cases 9 or 11. A few of the Senate committees are those on Finance (corresponding to the Committee on Ways and Means in the House), Agriculture, Commerce, and Foreign Relations.

Both in the House and in the Senate every member is on some committee, and some members have places on several committees. In both houses the committees are elected. The chairman and a majority of the members of each committee are from the members of the party that has a majority in the house.

**Steps in the Progress of a Bill.** — (1) The first step in the progress of a bill is its *introduction*. This is done in the House by merely placing the bill in a basket on the clerk's desk. In the Senate the member introducing a bill rises and asks leave to introduce it.

(2) The bill is next *referred* to a committee.

(3) If the committee decides that the bill should go further they *report it* back to the house.

The house will in a great majority of cases pass or reject it according to the committee's recommendation. Few bills are debated in either house, and in the most of these cases the discussion has no influence upon the fate of the bill — it is meant merely to be heard or to be printed. Hence, it is in that intermediate stage between the refer-

ence of the bill to a committee and the report on it that the real work of legislation is accomplished.

**The Power of Committees over Bills.** — A committee may exercise the utmost freedom with respect to the bills referred to it. The greater number of bills receive no consideration whatever from the committees; these may never be reported if the committees see fit to ignore them. Other bills are amended by the committees, or new bills are substituted for them. Such is the power intrusted to Congressional committees. However, if a majority of the house wishes, it may take up for discussion a bill which one of its committees has decided not to report back.

Many of the important committees have separate rooms where their meetings are held. Here the members may confer in secret, or they may hold public hearings; *i. e.*, persons are invited to give testimony or to make arguments. Frequently the majority members of a committee hold separate meetings, determine their policy, and then adhere to it regardless of the wishes of the minority members. The latter may present a separate report called the *minority report* of the committee.

**Consideration of Bills.** — (4) In the next step, the bill is brought before the house for consideration. How is it determined which bills shall be thus favored? In some measure this depends upon the importance and the merits of the bill; but it depends more upon the skill and influence of the member (generally the chairman of the committee reporting the bill) who is particularly interested in seeing it enacted into law. In the House of Representatives this important matter is most often de-

cided by the Committee on Rules, which is composed of ten members, six being of the party that has a majority in the House. In most cases this committee decides which bills shall be considered, and how much time shall be given to the discussion of each one. So it is necessary for the chairman of a committee to make a previous arrangement with the speaker to be recognized before he can bring up his bill. But on Wednesday of each week the chairmen of committees may call up their bills in the order in which they secure recognition. And the Committee on Rules does not control the bills which the House takes out of the hands of committees.

II. *The Power of the Speaker.* — The speaker is the executive officer who sees that the decisions of the Committee on Rules are carried out. In most important matters it is necessary for a member to make an arrangement with the speaker in order to secure recognition when he wishes to address the House.

In exercising the power of *recognition*, the speaker will, of course, give both the sides a fair opportunity to debate upon important measures. He will not permit members to make motions or lengthy speeches merely for the sake of delaying some action to which they are opposed. Such actions are called *obstructive tactics*, or *filibustering*.

**The Lobby, Log-rolling, and Patronage.** — Not all the bills that come before Congress are passed or rejected because they are wise or unwise. The influences that determine the course of legislation at Washington are very numerous and complicated. Some of these influences are to a greater or less extent legitimate, and others are totally bad. The *lobby*, in its broadest sense, is composed of

all those persons who go to Washington in order to exert pressure upon Congressmen in favor of or against certain measures. Some of the best laws and some of the worst are enacted through the influence of the lobbyist. *Log-rolling* is an important influence in determining legislation; a member votes for the pet measure of his fellow Congressman on condition that the latter will vote for the bill in which he is particularly interested. Political *patronage* is a great factor in determining votes in Congress; the power of members to recommend appointments,[1] and the influences exerted in their favor by the appointees, often determine the question of their continuance in office. Consequently, there is a great temptation to use patronage in exchange for votes. The use of money directly in *bribery* is difficult of detection, but other favors and privileges of money value are no less effective in the purchase of the votes of those members who are so unscrupulous as to be open to such influences.

**Debate in Congress.** — It is now apparent that many other things besides the arguments used in debate determine which bills shall pass and which shall fail. In the House the time for debate is strictly limited, on account of the amount of business. The chairman of the committee reporting a bill generally has one hour in which to urge the passage of his measure; for a portion of the time he may *yield the floor* to other members, both friends and opponents of the bill. Of course, much more than one hour is given to debate on important bills. Many of the speeches which are printed in the *Congressional Record* have not been delivered; but they are intended for circulation among the constituents of representatives, and for use as campaign documents. Many of the speeches that are actually delivered receive scant attention; the lack of interest in

[1] See p. 134.

them is made evident by the noise and confusion that very often prevail during sessions of the House.

**Senate Procedure.** — In the Senate debate is not limited. Senators are expected to regard each other's rights with respect to the amount of time and attention they may demand; yet a bill may be "talked to death" in the Senate. As a result, the Senate is less business-like in its procedure than the House, and some means of checking unlimited discussion have often been proposed for it.

**Conference Committees.** — A bill which has passed one house must be sent to the other. Here it is introduced and goes through the stages above described. If one house amends a bill which has already passed the other, it must be returned for re-passage to the house where it originated. This is a frequent cause of conflict between the two houses, and each tries to insist on its rights.

When such a dispute cannot be easily adjusted, a *conference committee* must be appointed. This is composed of members from each house, and they endeavor to arrange a compromise which will be acceptable to both houses. Generally their decision is ratified without question, but sometimes even this method of settlement fails.

**Methods of Voting.** — There are three methods of voting in Congress. (1) Members respond "aye" or "no" by acclamation. (2) If a *division* is called for, a rising vote is taken and the members are counted. In the House the counting is done by two tellers, who stand near the speaker's

desk, while the members pass between them in single file, first those voting in the affirmative, and afterward those opposing the motion. (3) When the "yeas and nays" are called for, or whenever the rules of either house require them, the roll is called and each member votes as he responds to his name. This vote is entered on the Journal.[1]

After the roll-call is completed, the presiding officer announces the *pairs*. Members who belong to different political parties may agree that they shall be recorded on opposite sides of party questions, whether they are present or not. Or pairs may be arranged for particular votes only. This device enables a member to be absent from his seat without feeling that his vote is needed.

**The President's Power in Law-Making.** — A bill which has received a majority vote in both houses is next sent to the President.

Article 1, Section 7, Clause 2. *Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting*

[1] See pp. 69–70.

*for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.*

There are then three ways in which a bill may become a law. (1) It may pass by majority vote in both houses and be signed by the President. (2) It may, after being vetoed by the President, be passed by two-thirds vote in both houses. (3) It will become a law if the President neither signs nor vetoes it within ten days, unless these are at the end of the session.

The framers of the Constitution intended that the veto power should be a check, though not an absolute one, upon hasty or unwise legislation. The President may cause a bill to fail by neither signing nor vetoing it during the last ten days of a session. The term *pocket veto* has been applied to this method of defeating bills.

### SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. Copies of the Congressional Record and the Congressional Directory furnish interesting illustrations of the topics treated in this chapter.
2. What difference is there in the granting of recognition in the Senate and House? Harrison, This Country of Ours, 45-48.
3. How are obstructive tactics carried on? Alton, Among the Lawmakers, Chapter 20.
4. Reinsch, Young Citizen's Reader, 198-213. Marriott, Uncle Sam's Business, 8-16.

## CHAPTER X.

### SOME IMPORTANT POWERS OF CONGRESS.

#### I. National Finances.

**The Power of Taxation.** — When we speak of the finances of a country, we mean its revenues and expenditures. Revenues have their origin chiefly[1] in taxation, and the power vested in Congress by virtue of which taxes are imposed and collected is found in the following clause:

Article I, Section 8, Clause 1. *The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States.*

**Duties on Imports.** — The two forms of taxes relied upon by the United States for its revenues are (1) duties and (2) excises.[2] A duty is a tax levied upon goods that are imported into the United States.[3] The merchant doing business in New York, for example, cannot obtain possession of the goods he has imported until the officers of the custom-house at that port have examined the *invoice*, or

[1] Considerable sums are derived by our National government from the sale of public lands. See Chapter on Territories and Public Lands.

[2] The terms *duties* and *imposts* have nearly the same meaning.

[3] Duties on exports are prohibited in Section 9, Clause 5, of Article I: *No tax or duty shall be laid on articles exported from any State.*

the list of articles in each package, with their prices; and the officers may examine the goods, also, to see if they correspond in amount and quality to the statements of the invoice. The importer then pays to the collector of the port of New York the amount of the duty levied on his importation.

**Kinds of Duties.** — These are of two kinds. (1) *Specific* duties are fixed amounts levied on certain units of measurement of commodities, as the pound, yard, or gallon. Under the tariff law of 1909 the duty on tin-plate was one and two-tenths cents for each pound. (2) *Ad valorem* duties are levied at a certain rate per cent on the value of the articles taxed. The law of 1909 laid a duty of 60 per cent on lace manufactures.

On some articles both kinds of duties are levied. Under the law just mentioned, the duties on carpets and rugs were 10 cents per square foot and 40 per cent *ad valorem* in addition.

Passengers on steamships coming from foreign countries are required to declare what dutiable goods they have among their baggage, each person being allowed to enter $100 worth of goods free of duty. Upon landing, their baggage is examined; trunks and valises are opened, and in suspected cases the persons of travelers are searched for concealed dutiable goods. The temptation to undervaluation and to smuggling, in order to escape this form of taxation, is so great that constant vigilance is necessary at custom-houses and along the borders of the United States to prevent these frauds. Special agents and revenue cutters are employed to detect violations of the law.

**Tariff Laws.** — A *tariff* is the list of the rates of duties fixed by law. An importer of foreign goods must consider the amount of the duties he has paid as part of the cost of the goods when he sells them. If a higher price is caused in this way, less of such goods will be imported and the production of the goods in this country will be encouraged.

Consequently, high rates of duties may have a decided influence upon the industries of a country. When the rates of duties are so fixed as to bring about this result, we have a *protective* tariff; *i. e.*, one under which persons can produce in this country certain articles which otherwise they could not produce, because of their cheapness when imported from a foreign country. The duties are made so high that it is not profitable to import the articles. When rates of duties are fixed primarily with the object of raising revenue, and without regard to their effect upon the industries of the country, we have a *tariff for revenue*. This kind of tariff is generally meant when the term *free trade* is used. Articles on which no duties are imposed are said to be on the *free list*. There is no country which fails to collect duties on some of its importations.

**Reciprocity Agreements.** — The United States has entered into *reciprocity treaties* with various countries for securing the reduction of tariff rates. Each country agrees to admit certain products of the other country at reduced rates, or free of duty. These are generally commodities in the production of which there is little or no competition between the parties to the treaty.

**Internal Revenue Taxes.** — Excises are taxes laid upon the manufacture and sale of certain products within the country. At the present time these *internal revenue* taxes are levied by the National government upon liquors,[1] tobacco, snuff, opium, oleomargarine, filled cheese, mixed

[1] Taxes are levied, not only upon the liquors themselves, but upon the business of brewing and rectifying; of selling by wholesale and by retail; of manufacturing stills; and upon the stills themselves. A list of these taxes may be obtained from the collector of any internal revenue district.

flour, and playing cards. The greater number of these taxes are paid by the purchase of stamps, which must be affixed, in the proper denominations, to the articles taxed. When the packages are broken, the stamps must be destroyed so that they cannot be used again.

**War Taxes.** — Because taxes of this kind are so easily collected, the government has extended them to a great number of articles when it suddenly needed a large revenue, as in the War of 1812, the Civil War, and the Spanish War of 1898. The law of 1898 increased the taxes on liquors and tobacco, and imposed new taxes on (1) proprietary articles, and (2) documents. Under the first heading fall patent medicines and compounds of various kinds. Documentary taxes[1] were imposed upon legal papers, such as deeds, mortgages, etc., and also upon bank checks and drafts, telegraph and telephone messages, and express receipts. Under this law the internal revenue receipts rose from $170,000,000 in 1898, to $273,000,000 in 1899. Congress has repealed these special war taxes.

**Corporation Tax.** — In 1909 Congress levied a tax upon corporations. Every corporation doing interstate business is required to report its earnings and its expenses. The difference between these amounts is its *net earnings*. The law requires the payment of one per cent of the net earnings that are in excess of $5000.

**Rules for Levying Taxes.** — The Constitution contains three rules by which Congress must be guided in the levying of taxes. We have seen, Article I, Section 8, Clause 1, that *duties, imposts and excises must be uniform throughout the United States;* that is, the same rates must prevail everywhere. Another provision, Article I, Section 2, Clause 3, is that *representatives and direct taxes shall be*

[1] These were exactly like those imposed by Parliament in the Stamp Act of 1765.

*apportioned among the several States . . . according to their respective numbers.*[1]

The third provision is the Sixteenth Amendment, which became a part of the Constitution in February, 1913: Article 16. *The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.*

We have, therefore, the following classification: —

| | | |
|---|---|---|
| I. Direct taxes, levied on | persons,[2] lands, | Must be apportioned among the States according to population. |
| II. Indirect taxes | duties, imposts, excises, income taxes. | Must be uniform throughout the United States. |

So far, we have discussed the indirect taxes only, for at present the United States levies no direct taxes. In our previous history, however, the government has imposed all the kinds of taxes mentioned in the outline above. In levying a direct tax, Congress must determine the total amount to be raised (as $2,000,000 in 1798, and $20,000,000 in 1861), and then apportion this amount among the States, according to their population.

[1] See also Article I, Section 9, Clause 4: *No capitation, or other direct, tax shall be laid unless in proportion to the census or enumeration hereinbefore directed to be taken.*

[2] These are *poll taxes*. Such a tax was levied on slaves in 1798 and 1813.

The bills introduced into Congress which provide for taxation are called "bills for raising revenue." They must originate in the House of Representatives (Article I, Section 7, Clause 1). The Committee on Ways and Means frames these bills. In the Senate such bills are referred to the Committee on Finance, and here the bills may be amended.

**The Appropriation of Money.** — Appropriation bills are those which provide for the expenditure of the government's funds, and these bills are in charge of the committee on appropriations in each house.

Below is a list of the principal items in the revenues and appropriations for the year ending June 30, 1910.

| REVENUES. | |
|---|---|
| Duties | $333,000,000 |
| Internal revenue | 290,000,000 |
| Miscellaneous | 52,000,000 |
| Total | $675,000,000 |

| EXPENDITURES. | |
|---|---|
| War Department | $156,000,000 |
| Navy Department | 123,000,000 |
| Indian Bureau | 18,000,000 |
| Pensions | 160,000,000 |
| Interest on public debt | 21,000,000 |
| Civil list and miscellaneous | 180,000,000 |
| Total | $659,000,000 |

**The Power to Borrow Money.** — We have now seen how money is provided for the government under ordinary circumstances. In extraordinary cases this revenue is not

sufficient; accordingly, Congress has been given power by Article I, Section 8, Clause 2, *To borrow money on the credit of the United States.*

Money is borrowed in most cases by the sale of bonds. These are of the same nature as the promissory notes by which individuals obtain loans. National bonds state the promise of the United States to pay a certain amount, at a stated time, with interest. A "registered" bond contains the name of the owner, and this is a matter of record at the Treasury Department. When this bond is sold, the record must be changed. "Coupon" bonds are usually payable to bearer; they have attached to them a number of coupons equal to the number of interest payments due during the term of the bond. Each of these is cut off as the payment becomes due, and can be cashed at any bank.

Bonds are bought and sold on the market, and their prices are quoted in the daily papers. When the bonds fall due, they are *redeemed* by the government at their face value, or "at par." On the market all United States bonds are now selling "at a premium." Issues of bonds were made in 1898, the rate of interest being 3 per cent, and in 1900, the rate being 2 per cent. The Public Debt Statement issued monthly by the Treasury Department gives the divisions of the bonded debt and the amount outstanding. On December 1, 1910, the amount of the interest-bearing debt was $913,000,000.

## II. The Power of Congress over Commerce.

**The Control of Commerce.** — The power over commerce, which we are next to discuss, was given to Congress because the history of the country under the Articles of Confederation showed clearly that State control of commerce

resulted in confusion and constant disputes. It is necessary that merchants and ship-owners should conduct their business under laws that are as *uniform* as possible. It is also necessary that they should be *certain* as to the terms of the law. These conditions could not exist if each State were to make laws controlling the commerce going to other States and to foreign countries.

The Constitution gives Congress the power, in Article I, Section 8, Clause 3, *To regulate commerce with foreign nations, and among the several States, and with the Indian tribes.* Not all commerce that is carried on by the citizens of this country is subject to control by Congress.

There is a vast amount of commerce that is carried on entirely within the limits of the different States. Over this commerce Congress has no power; it is regulated by State laws relating to trade and transportation.

**Interstate Commerce.** — The distinction between State and interstate commerce is not readily seen in many cases; but in general it may be said that if a commodity starts in one State destined for another, its control throughout its course lies within the power of Congress. This principle applies to both land and water transportation. So the coast trade among the States lies within the jurisdiction of Congress; also, commerce upon those rivers that form highways between different States. The harbors and waterways of the United States have been improved by the expenditure of many millions of dollars. This money has been appropriated in the "River and Harbor Bills" that are passed by almost every Congress.

**The Interstate Commerce Law.** — The importance of railroad transportation led to the enactment, in 1887, of the "Interstate Commerce Law," controlling this form of commerce. The law became necessary because of certain abuses which had arisen. In many instances the railroads gave lower freight rates to certain persons than to others doing the same kind of business; again, the merchants or manufacturers of certain cities were favored by more liberal rates than could be obtained by those who were engaged in the same industries in other cities. As a result, the business of many persons and places suffered injury, while the business of their rivals prospered through the advantages given to them by the railroads.

In consequence of these and other evils, various laws, beginning with that of 1887, have been passed to control not only railroad and steamboat lines, but also telegraph, telephone, express, and sleeping-car companies in so far as they are engaged in interstate and foreign commerce.

Some provisions of these laws will now be stated. (1) Charges must be just and reasonable. The Interstate Commerce Commission has power to decide what is reasonable, and to *fix rates*, after an investigation. (2) It is unlawful to give one person or corporation a better rate than another for the same service. This is called "discrimination." Passes cannot be granted, except to employees. (3) All rates must be posted where they can be consulted by any person. (4) All companies engaged in interstate commerce must open their books to inspection by the commission and must make reports that they require. (5) If any person objects to a decision of the commission.

he may appeal to the Commerce Court, which has been created to consider such cases.

**The Control of Trusts.** — Among the abuses arising in connection with interstate commerce are those which result when persons enter into agreements or combinations to prevent free competition; for under these circumstances prices are raised, or certain persons are favored in trade. In 1890, Congress passed a law prohibiting such combinations "in restraint of trade or commerce among the several States or with foreign nations." This is known as the Sherman Anti-trust Law. Now, a trust is simply a large corporation which has absorbed or killed off, more or less completely, other establishments engaged in the same industry. The trust may or may not have a monopoly, that is, complete control in that line of business; and it may or may not be engaged in interstate commerce. An agreement among certain railroad companies to establish and maintain freight rates was declared to be in violation of the law of 1890. Also, a combination, or "conspiracy," among railroad employees to stop the running of trains was declared illegal.

The "trust problem," which is so prominent in current political discussion, is the question of preventing the evils of combination in industry. These evils become evident when excessive prices are charged by persons who control certain lines of business; that is, when free competition is prevented in the production, transportation, or sale of commodities. If the business conducted by a trust lies entirely within the limits of a single State's boundaries, then it must be regulated by State law.

## III. The Money of the United States.

**Our National Currency.** — Another of the most important powers of Congress is that granted in the following clause: —

Article I, Section 8, Clause 5. *To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.*

In civilized countries it is the practice of the government to furnish to the people a "circulating medium" for use in trade and commerce. Two kinds of money are in use in the United States: (1) coin, or specie; and (2) paper money. The total amount of money in circulation in the United States on November 1, 1910, was $3,124,679,057, or $35.01 *per capita* for the whole population. We shall first consider the coins of the nation.

**How Coins Are Made.** — The coinage of money takes place at the mints, which are located at Philadelphia, Denver, New Orleans, and San Francisco. Gold and silver come to the mints in the form of bricks, or rough bars, to which the term *bullion* is applied. Alloy must be added to the pure metal for the purpose of rendering it of sufficient hardness to withstand wear. In our gold and silver coins one-tenth of the weight is an alloy composed of copper and nickel. A quantity of the bullion of the required purity is first melted and then cast into ingots, or long bars. Each bar is next run between heavy rollers until it takes the form of a thin strip. From the strip are punched round pieces, called "blanks," of the size and thickness of the coin that is being made. In the next

process the blank is weighed on a delicate balance; when found to be of the correct weight, the coin is placed in a powerful press, and from this it comes with its edge raised above the face and its edge milled. In a similar press the designs are stamped upon the faces of the coin.

Below is a list of the coins now being minted.

| Gold Coins.[1] | |
|---|---|
| Double eagle | Half-eagle |
| Eagle | Quarter-eagle |
| **Silver Coins.** | |
| Standard dollar | Quarter-dollar |
| Half-dollar | Dime |
| **Minor Coins.** | |
| Five-cent (nickel) | One-cent (bronze) |

The silver coins less in value than one dollar are called *subsidiary* coins.

**The Ratio of Gold and Silver Coins.** — The law fixes the weight of pure metal in a silver dollar at 371.25 grains, troy weight, and that of the pure metal in a gold dollar at 23.22 grains. The *ratio* of these weights is 15.988 + : 1, or nearly 16 : 1. This indicates the origin of the famous expression, "sixteen to one."

**Free Coinage.** — By *free coinage* is meant a policy established by law, under which any person may bring bullion to the mint in any amount and have it coined; that is, the amount which the government will coin is *unlimited* by law. Our country has always had the policy of free coinage with respect to gold. This was also the policy in the coinage of our silver dollars until 1873. At that time the coinage of the silver dollar was discontinued until a law was passed in 1878 (the Bland Act) renewing its coinage, but in *limited* quantities. The government purchased silver bullion under this

[1] No gold one-dollar pieces have been coined since 1890.

law, and under the Sherman Act (1890), but since 1893 no silver bullion has been purchased for the coinage of silver dollars, but the bullion already on hand has been used for this purpose.

**Paper Money.** — We have in the United States five kinds of paper money in general circulation: —

| Kinds. | Amounts in circulation, Nov. 1, 1910. |
|---|---|
| 1. United States notes | $341,000,000 |
| 2. Gold certificates | 836,000,000 |
| 3. Silver certificates | 483,000,000 |
| 4. National bank notes | 706,000,000 |
| 5. Treasury notes of 1890 | 3,500,000 |

**The History of United States Notes.** — United States notes, or "greenbacks," as they are commonly called, originated during the Civil War. When the government was without specie (*i. e.*, gold and silver money) with which to purchase supplies for the army and pay other expenses, it issued these notes. Each note says on its face, "The United States will pay to bearer $——." Since no time was set for the fulfillment of this promise, and since there was neither gold nor silver in the Treasury with which to redeem the notes, people would naturally hesitate to accept them in payment for goods or salaries. Consequently, Congress made the notes "legal tender";[1] that is, the law compelled creditors to receive this kind of money in payment for debts. The notes passed into circulation, therefore, because people were forced to take them; but their value depreciated greatly during the war. In 1879 the

[1] Our full legal-tender coins at present are the gold coins, silver dollars, United States notes, and Treasury notes of 1890. Subsidiary silver coins are legal tender in amounts not greater than $10.00, and the minor coins are legal tender to the amount of twenty-five cents.

government began the redemption of the notes in specie, and since that time they have been worth their face value.

**Gold and Silver Certificates.** — It is much more convenient to handle paper money than coins. When a person deposits gold or silver coin in the Treasury, he may receive these certificates in exchange. Consequently, the value of these certificates in circulation represents an equal amount of gold coin and silver dollars stored in the United States Treasury and ready for exchange for the certificates at any time.

**National Bank Notes.** — The fourth kind of paper money is issued by National banks. These are organized under United States law and subject to control by an officer of the Treasury Department. Like banks that are organized under State law, National banks conduct the ordinary banking operations. That is, they receive deposits, loan money, and buy and sell drafts in the ordinary course of business. In addition, these banks are given the right "to issue notes." In doing this, the bank first buys on the market a certain amount of United States bonds; these it sends to the Treasury at Washington and leaves there on deposit. The bank will then receive from the Treasury "National bank notes" equal in amount to the face value of the bonds deposited. These notes say that "The National Bank of ——— will pay the bearer $ ——, on demand." Now, the bank may fail, *i. e.*, it may not be able to pay what it owes to its depositors and other creditors. But the holders of National bank notes will not suffer loss. For the Treasury

will sell the bonds and thus obtain cash with which it can redeem the notes held by individuals.

The amount of Treasury notes of 1890 is comparatively small, and this kind of money is destined to disappear within a few years.

### SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. The tariff schedule in force at the present time may be found in newspaper almanacs. Is this tariff high, low, or moderate in its rate?
2. The Statistical Abstract, published by the Bureau of Statistics of the Treasury Department, gives the list of items upon which duties and internal revenue taxes are collected, and the amounts yielded by each for a series of years; the expenditures of the government, with the chief items; a statement of the National debt; and statistics concerning the money of the United States. See also any newspaper almanac.
3. Why do liquors and tobaccos bear the heaviest excise taxes? What reasons can you give for taxing the other articles mentioned on pp. 82–83?
4. Because our coins contain one-tenth alloy, they are said to be nine-tenths fine. Calculate from the weights of pure metal, given on p. 91, the total weights of the gold and silver dollars.
5. For information concerning the Act of Congress fixing a "standard of weights and measures," see Government in State and Nation, 188-189.
6. The depreciation of the United States notes, referred to on p. 92, is shown graphically in Government in State and Nation, 185.
7. For our money, see Reinsch, Young Citizen's Reader, 101-105; Marriott, Uncle Sam's Business, 97-119; 165-172; Century Book for Young Americans, 121-134.
8. On commerce, read Harrison, This Country of Ours, 65-67.
9. Finances. Harrison, 59-65, and Chapter 12; Marriott, 109-127.

# CHAPTER XI.

## OTHER GENERAL POWERS OF CONGRESS.

### I. Power of Naturalization.

**Who Are Citizens.** — Who are citizens of the United States is always a question of interest. We find it clearly answered in the first clause of the Fourteenth Amendment as follows: *All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States, and of the States wherein they reside.*

Thus there are two classes of citizens: (1) those who are citizens by birth; (2) those who have been naturalized. Children born in this country, though of foreign parentage, and residing here, may be considered American citizens if they choose. According to an Act of Congress, passed in 1882, Chinese aliens may not be naturalized; but our Supreme Court has decided that a child born in the United States of Chinese parents is a citizen, if he desires to be. Though born in a foreign country, a child whose father is an American citizen may claim the privilege of American citizenship. Indians who keep their tribal relations are not included under the provisions of this section.

**Naturalized Citizens.** — The second class of citizens are those who are naturalized. That the rules should be uni-

form by which aliens become citizens, is self-evident. After a brief discussion, the Constitutional Convention provided in Section 8, Clause 4, that *Congress shall have the power to establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States.*

**Process of Naturalization.** — (1) The foreigner desiring to become a citizen goes before the clerk of any court of record and declares, "upon oath," that it is his intention to become a citizen of the United States, and to renounce all allegiance to the government which has jurisdiction over him. He then receives his "first papers." (2) After he has resided in the United States for five years, providing two years have elapsed since his "declaration of intention," he may secure his certificate of naturalization. He must appear in open court and swear that he will support the Constitution of the United States, and renounce all allegiance to any foreign power. Two witnesses must testify to his term of residence, and declare that he is a man of good moral character. The applicant must be able to speak the English language. His wife, and those of his children who are under twenty-one years of age, become citizens at the same time. In certain cases Congress has, by a single act, admitted large numbers of aliens to American citizenship, as it did at the time of the purchase of Louisiana, the annexation of Texas, and of Hawaii.

**Bankrupt Laws.** — It sometimes happens, because of general depression in trade throughout the country, on account of losses, or

for other reasons, that business men become heavily involved in debt. They are said to be insolvent. Now, it is but just that such property as they have should be divided in some equitable way among the creditors. A bankrupt law secures such a division, and the debtor is, at the same time, freed from all legal obligation to pay the debts which cannot be met in this way. The first law of Congress on this subject was passed in 1802, and repealed in 1803. Since that time there have been three other bankrupt laws, but the total time during which they have been in force amounts only to some twenty years. The last law, that of 1898, is still in operation.[1]

Some States have also passed insolvency laws. However, these must not in any way conflict with the provisions of the National bankrupt laws.

## II. The Postal System.

**Organization of the Post-office Department.** — We can appreciate somewhat the advancement made in the postal service rendered by the government when we read that an Act of Congress in 1782 directed that mail should be carried "at least once in each week from one office to another." Our well-organized postal system, declared recently by the Postmaster-General to be the "greatest business concern" in the world,[2] has been evolved through laws made in carrying out the provision of the Constitution that *Congress shall have power to establish post-offices and post-roads.*

As is well known, the Postmaster-General, a member of the President's Cabinet, is at the head of this department of government. One of the chief burdens of the Post-

[1] See "Government in State and Nation," p. 193, for a further discussion of bankrupt laws — especially that of 1898.

[2] The total receipts of the Post-office Department for 1910 were $224,128,657.

office Department was formerly the appointment of the so-called fourth-class postmasters, intrusted to the Fourth Assistant Postmaster-General. Executive orders of Presidents Roosevelt and Taft placed 50,000, or about five-sevenths, of these postmasters in the *classified* service. An order of President Wilson, in 1913, applied the *merit* system to these offices, by which these postmasters were compelled to demonstrate their fitness for these appointments. This order included all fourth-class postmasters except those paying less than $180 a year. The other three classes, in which are included those postmasters whose salaries are not less than $1000, are appointed by the President, with the consent of the Senate.

**Classes of Mail.** — Mail matter belongs to one of four classes. In general, the classes and rates are as follows: First class — letters, two cents an ounce; second class — newspapers and periodicals, one cent a pound; third class — books, one cent for two ounces; and fourth class — merchandise, limited to four-pound packages, one cent an ounce.

**Free Delivery.** — Among the notable advances in the mail service was the provision for the free distribution of mail in the cities of 10,000 inhabitants, or where the annual postal receipts are $10,000 and above.

**Rural Free Delivery.** — No innovation in postal methods has been more successful than the free delivery of mails in the country districts. The development of the system, since its establishment in 1897, has been remarkable.[1]

[1] According to the report of the superintendent for the year ending June 30, 1910, 41,079 routes had been established. The rural population receiving

Among the good effects resulting from its extensive introduction may be mentioned the following: (1) Correspondence in the communities affected has increased. (2) The circulation of the daily newspaper and of periodical literature has been greatly enlarged, and interest has grown in public affairs. (3) Good roads have been multiplied, for they are made one of the conditions for the introduction of the service. (4) Because the country districts are brought into daily communication with the centres of population, the tendency to quit the farm for the town has been lessened and thus rural free delivery is helping, in some degree, to solve one of the problems of our social and industrial life.

**Postal Savings-Banks.** — At various times bills have been before Congress providing for the establishment of postal savings-banks in connection with post-offices. It is proposed that they shall receive small amounts on deposit, paying a low rate of interest, and that the funds secured be invested in government bonds. A law was passed in 1910 which provided for the establishment of postal savings-banks. The plan has proved a success.

**Some of the Defects in Our Postal System.** — (1) For thirty years prior to 1911 there has been an annual deficit of several million dollars. This was caused largely through the transportation of second-class matter, so-called periodical publications. But in 1911 there was a postal surplus of nearly $220,000, which was due largely to more business-like methods in management. That this is an unjust drain upon the public funds is clear, when we consider that, in a recent year, the government expended $17,277,783 more than it received for carrying second-class mail. (2) Another seri-

daily mail service amounted to more than 18,000,000. Two thousand one hundred and twenty-four new rural routes were authorized in 1911, aggregating 51,230 miles in length. President Taft urged a further extension of the system.

ous defect has existed in the payment of exorbitant rates to railroad companies for carrying the mails. (3) Some Congressmen abuse the privilege granted them of sending government publications free. (4) The postal system has offered one of the best fields for the manipulation of the spoilsman. Postmasters have been usually appointed on the recommendation of representatives, and, too frequently, the one essential to securing an office is that the applicant must be influential in politics.

**Parcels Post.** — On January 1, 1913, a far-reaching innovation was put into operation by the Post-office Department. The parcels-post system was used for the first time. Bills providing for such a system had been introduced into Congress, but failed to pass owing largely to the opposition of express companies and other common carriers.

## III. Copyrights and Patents.

**Copyrights and Patents.** — Section 8, Clause 8. *To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.*

The development of American literature has been greatly aided through the operation of laws based on this clause. Copyrights are secured from the Librarian of Congress. Any person obtaining a copyright has the sole right to print, copy, or sell the book, chart, engraving, music, etc., for a period of twenty-eight years. A copyright may be renewed for fourteen years longer. It may be sold or transferred, providing a record of the transfer be made in the office of the Librarian of Congress within sixty days.

**Patents.** — Americans have been rightly named the great inventors of the world. Not a little of our marvel-

ous industrial progress has been due to this inventive ability. The government has contributed to the same end, through the enactment of laws protecting those inventors who secure patents. A person desiring a patent must declare upon oath, in his petition addressed to the Commissioner of Patents, that he believes himself to be the first inventor of the article for which he solicits a patent. The sum of fifteen dollars is charged for filing the application, and twenty dollars for issuing the patent. A patent is granted for seventeen years, but may be extended for seven years more. During this period, the patentee has the exclusive right to manufacture, sell, or transfer his invention.[1]

## IV. Military Powers in Congress.

Section 8, Clauses 11, 12, 13, 14. *To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.*

*To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.*

*To provide and maintain a navy.*

*To make rules for the government and regulation of the land and naval forces.*

**The Army.** — Americans are always impressed by the military spirit so prevalent in European nations. Compared with the standing army of Germany, which has some 700,000 men, and with that of Russia, containing 1,000,000 men, or with that of most European nations,

[1] In the year 1910, 37,421 patents were granted by our government.

our army is insignificant in size. According to a law of 1901, the army of the United States cannot contain more than 100,000 men.[1]

Fortunately, there has always existed in the United States the desire to keep the standing army from becoming unduly large. The Constitution itself indicates that appropriations for the army shall not be for a longer time than two years. At the end of this period, the people may check the growth of the army through the election of representatives opposed thereto.

**Officers and Classification of the Army.** — The President is, *ex officio*, commander-in-chief of the army and navy of the United States. The office of general was created, by Congress, March 3, 1799, but was not filled. It was revived in 1866 for General Grant, General Sherman succeeding to the title in 1869. The same rank was bestowed on General Sheridan in 1888. The lieutenant-general is next in rank to the general. The army is distributed geographically as follows: Division of the Philippines and the Departments of California, of the Colorado, of the Columbia, of Dakota, of the East, of the Lakes, of the Missouri, and of Texas. The division is in charge of a major-general, and the departments are each in charge of a major-general or of a brigadier-general. The commands which correspond to each grade are: major-general, four regiments; brigadier-general, two regiments; colonel, one regiment; lieutenant-colonel or major, a battalion or squadron; captain, a company. As now organized, infantry regiments consist of 12 companies, of 65 men each. Cavalry regiments contain 12 troops, each having 65 enlisted men.

**The Navy.** — We are told by competent authorities that one of our best means of preserving peace with foreign

[1] The minimum number of men was fixed at 57,000. In 1908, the number of officers and men in the army was 72,628.

powers is to maintain a strong navy. This has become much more necessary since the United States has begun to acquire insular possessions. Although the construction of the modern American navy was not begun until 1883, there has been a notable advance within the past few years. In 1910 it was estimated that our navy is excelled in strength only by that of Great Britain. Congress, in 1910, continued the policy of "adequate preparation" by authorizing the construction of two battle-ships a year.

**Names of Vessels.** — A ship of the first class is given the name of a State; one of the second class that of a principal city or river, and the names for ships of the third class are selected by the President. The navy now contains 312 vessels.

**Officers in the Navy.** — The titles admiral and vice-admiral, corresponding to the grades of general and lieutenant-general in the army, were created by act of Congress to be bestowed on the following men as recognition for distinguished services during the Civil War: Admirals Farragut and Porter; and Vice-Admirals Farragut, Porter, and Rowan. Admiral Dewey was granted his title by a special Act of Congress after the Battle of Manila. The officers of the navy ranking with major-generals, brigadier-generals, colonels, and so on, in the army, are rear-admirals, commodores, captains, commanders, lieutenant-commanders, lieutenants, masters, ensigns.

**The Militia.** — With but little opposition in the Constitutional Convention, Congress was given the power to make provision for citizen-soldiers as follows: —

Section 8, Clause 15. *To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions.*

Clause 16. *To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.*

**Number of the Militia.** — All able-bodied male citizens of the United States and males between eighteen and forty-five years of age who have declared their intention to become citizens are regarded as the militia force of the country. As a matter of fact, there are at present only about 100,000 men enrolled in this service. But in the case of an emergency the President may compel the governors of the various States to furnish the troops needed. The militia may thus be called into service, under their own State officers, for a period of nine months. The War of 1812 and the Civil War furnish the best illustrations of the enforcement of this provision.

**Volunteers of 1898.** — We should note here the manner in which men were secured for the war against Spain. We see, according to Clause 15, that the militia may be called out only for the purposes of executing the laws of the Union, suppressing insurrections, and repelling invasions. Now, in the case given, the war was to be conducted in foreign territory, and President McKinley called for 200,000 volunteers. It was understood, however, that preference would be given to those volunteers who were already members of the organized militia.

## V. Location of the Capital.

Section 8, Clause 17. *Congress shall have the power to exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards and other needful buildings.*

One of the most interesting contests in American history arose in the selection of a site for the capital city. Congress finally accepted, for this purpose, one hundred square miles of land on the Potomac River, which was ceded by Maryland and Virginia. The thirty square miles given by Virginia were afterward returned to that State. The capital was to be in New York until 1790, then in Philadelphia until 1800. In 1800 it was transferred to the new district, called the District of Columbia.[1]

## VI. Implied Powers.

**Strict and Loose Construction.** — Our national development has been, in large measure, dependent on the interpretation of the next clause of the Constitution. It is often called the elastic clause.

Section 8, Clause 18. *To make all laws which shall be*

[1] For the government of this district, see "Government in State and Nation," p. 204.

*necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the government of the United States or in any department or officer thereof.*

Briefly stated, the problem has always been, Has Congress the right to exercise powers not definitely granted by the Constitution? Alexander Hamilton first set forth the doctrine of *implied* powers. He urged that Congress might, in carrying out specific powers, use methods not *expressly* provided for in the Constitution, as in the creation of a bank or a mint. Since the time of this interpretation, which, fortunately for American interests, was sanctioned by Washington and later by the Supreme Court through its great Chief-Justice John Marshall, the advocates of the doctrines of strict and loose construction have contended for their principles. Does the Constitution permit the acquisition of territory? May Congress establish a protective tariff, or a system of internal improvements? We have here but three of the great questions which have led to a definition of these opposing views. Speaking in general terms, the party in power has favored loose construction, while the party out of power has advocated strict construction. Said Mr. Bryce, "The Americans have more than once bent their Constitution in order that they might not be forced to break it." [1]

[1] Bryce, "American Commonwealth," I, 390.

## SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. What are some of the difficulties encountered in becoming a citizen? Independent, 65:994–1000.
2. Is there a postal savings-bank in your town? Is it successful?
3. Should there be a system of postal telegraphy? Cent. Mag., 59:952–956; N. Am. Rev., 172:554–556.
4. Extent and advantages of rural free delivery, Rev. of R's, 27:55–60.
5. Perils of the postal service, N. Am. Rev., 172:420–430; 551–559.
6. Defects in the postal system, N. Am. Rev., 174:807–819; 175:115–127.
7. Privateers and privateering, Government in State and Nation, 204; Walker, The Making of the Nation, 200.
8. For the methods employed in the patent office and a comparison between our system and that of European nations, see Cent. Mag., 61:346–356.
9. A good account of the reorganization of the army of the United States is given in the Atl. Mo., 89:437–451.
10. The development of the United States army, Scribner's Mag., 30:286–311, 446–462, 593–613.
11. West Point after a century, World's Work, August, 1902, 2433–2451.
12. A hundred years of West Point, Outlook, 71:591–601.
13. Life at West Point, Rev. of R's, 26:45–53.
14. What was the character of our navy prior to 1883? Harrison, This Country of Ours, 251–255.
15. The new American navy, Outlook, 73:323–337.
16. Comparison of the strength of our navy with that of other nations, Rev. of R's, 25:561–570; 39:347.
17. What special problem was connected with the location of the capital? How was it finally settled? Hart, Contemporaries, III, 269–272; Schouler, I, 152–156; McMaster, I, 555–562; World's Work, 1:191–195.
18. The development of Washington during the past one hundred years is discussed in Rev. of R's, 22:675–686; Forum, 30:545–554; Outlook, 70:310, 311, 817–829; Cent. Mag., 63:621–628, 724–756; Cosmop., 30:109–120.
19. Proposed improvements in Washington, Cent. Mag., 63:621–628, 747–759.

20. For the influence of the doctrine of implied powers, see: —
   (*a*) Internal improvements, Hart, Contemporaries, III, 436–440; Walker, The Making of the Nation, 204, 205, 262, 363; Hart, Formation of the Union, 227–229, 353–355.
   (*b*) The United States Bank, Hart, Contemporaries, III, 446–450; Hart, Formation of the Union, 150–151, 226–227; Walker, The Making of the Nation, 82–83.
   (*c*) The annexation of territory, Hart, Contemporaries, III, 373–376; Walker, The Making of the Nation, 177–184; Hart, The Formation of the Union, 188.
   (*d*) Legal-tender cases, Wilson, Division and Reunion, 280–281.
21. For further questions on this chapter, consult Government in State and Nation, 206, 207.

## CHAPTER XII.

### POWERS DENIED THE UNITED STATES AND THE SEVERAL STATES.

While restrictions on Congressional powers are found elsewhere in the Constitution, Section 9 of Article I seems to have been framed especially for this purpose.[1]

**Writ of Habeas Corpus.** — Clause 2 provides: *The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require it.*

A writ of *habeas corpus* is a writ granted by a court, commanding an officer to produce before it a prisoner, in order that the court may inquire into the cause of his imprisonment or detention. If, after such inquiry, it is found that the person is detained for insufficient cause, he is granted his freedom.

**President Lincoln and the Writ of Habeas Corpus.** — President Lincoln, as a military necessity, in 1861, suspended the privilege of the writ over a limited area, constituting a large part of the State of Maryland. The Supreme Court, however, declared his order non-effective, maintaining that the right of suspending the writ of *habeas corpus* lay with Congress, though it might be granted to the

[1] Clause 1 of this article formed an important part of the third great compromise, which was discussed on p. 43.

President. This attempt on the part of the Supreme Court to restrain Mr. Lincoln was a failure, and shows that even the highest of our tribunals may not have its usual power in time of war. It was not until March 3, 1863, that Congress made the decree of President Lincoln legal by authorizing him to suspend the writ whenever he believed the public safety demanded it. In September of that year he declared the suspension general throughout the country.

**Ex Post Facto Laws.** — Clause 3. *No bill of attainder or ex post facto laws shall be passed.*

An ex post facto law, as defined by the Supreme Court, is a "law which renders an act punishable in a manner in which it was not punishable when it was committed." It applies to acts of a criminal nature only.[1]

**Care of Public Money.** — Clause 7. *No money shall be drawn from the Treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.*

It is proper in a government such as ours that the control of the public money should be lodged with the representatives of the people. Through the annual report of the Secretary of the Treasury, the people may know from what sources our revenues are derived and for what purposes the money is expended.

**Titles of Nobility and Gifts.** — Clause 8. *No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without*

[1] Clause 4 is discussed under National Finances, p. 84.

*the consent of the Congress, accept of any present, emolument, office, or title of any kind whatever from any king, prince, or foreign state.*

According to the wording of the clause, Congress may allow gifts, of the kind mentioned, to be accepted by our National officials. Usually, however, such gifts pass into the keeping of government.

**Powers Denied the States.** — We recall the power of the States and weakness of the general government under the Articles of Confederation. It was plain to the members of the Constitutional Convention that hopeless confusion would arise if the States should also be given the right to coin money, pass ex post facto laws, etc. Therefore, certain prohibitions were made on the powers of the States. In Section 10, Clause 1, we note that these prohibitions are absolute, as: —

*No State shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal, coin money, emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.*[1]

In Section 10, Clauses 2 and 3, the prohibitions are only conditional; thus: —

*No State shall, without the consent of the Congress, lay any impost or duties on imports or exports except what may*

[1] In the celebrated Dartmouth College case, it was finally determined that a State legislature may not modify the terms of a contract. See Life of John Marshall, by Magruder, "American Statesmen," new ed., 188–190.

*be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.*

*No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay.*

**More Complete Protection of Personal Rights.** — By a careful reading of Sections 9 and 10, it is seen that some of the rights of the individual are guarded against encroachment on the part of government, either National or State. But the people felt that there were other personal rights which needed protection. They were familiar with the bills of rights in their own State constitutions. That the National Constitution did not also contain a bill of rights was, as we have seen, one of the chief arguments made against its adoption in the State conventions.[1]

**The First Ten Amendments.** — A large number of propositions, therefore, were submitted to the first Congress by the States. Seventeen of these were selected by the House of Representatives, and proposed as amendments to the Constitution. Twelve of these were acceptable to the Senate also, and ten were ratified by the required three-fourths of the State legislatures. We call them the first

[1] See p. 45.

ten amendments to the Constitution. If we read these amendments, we shall find that really they are a bill of rights, for the preservation or protection of rights of the people is expressed in all.[1]

[1] See Appendix A.

## CHAPTER XIII.

### THE EXECUTIVE DEPARTMENT.

**The President and His Election.** — We have seen that the one great weakness of the government under the confederation was that there existed no adequate executive. After much discussion in the convention, the fear of a despot at the head of affairs gave place to the desire to secure executive energy and responsibility. To-day the President is the most notable personage among all our officials. Mr. Bryce calls the Presidential office the greatest office in the world unless we except the papacy. In the Executive Department the President's power is practically absolute. He may appoint and remove, either directly or indirectly, all officials of the department, and they are finally responsible to him in the performance of their duties. His control of international relations and his influence on legislation are, as we shall see, extensive.

**Length of Term.** — Article II, Section 1, Clause 1. *The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows: —*

**Method of Election.** — How shall the President be chosen? This problem is said to have taken one-seventh

of the entire time of the convention. While there were those who believed that election by the people would be wise, still this sentiment was not general. It was thought that a choice in this way would cause great "tumult and disorder." Besides, it was urged that the people would not be sufficiently acquainted with the men who have the necessary qualifications for such high office. For a special investigation of this sort, they agreed that it would be best to select a small number of persons who would be most likely to possess the required information and discernment. The appointment of these independent electors was provided for as follows: —

**Appointment of Electors.** — Section 1, Clause 2. *Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the State may be entitled in the Congress; but no senator or representative or person holding an office of trust or profit under the United States, shall be appointed an elector.*

Article II, Section 1, Clause 3. *The Congress may determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States.*

At present, the appointment of electors is a necessary but a comparatively unimportant step in the election of a President.

The real power exists in the National conventions of the great political parties. Instead of exercising the right of free choice, as they were originally expected to do, the

electors are really bound to vote for candidates nominated in these conventions. Let us consider, then, some of the chief points in the history and practical working of National conventions.

**Early Methods of Nominating.** — Like the development of other political usages, the method of nominating a President passed through several stages before the present plan of nominating conventions was reached. No nominations were made in the first two Presidential elections. In 1796, Washington having refused to be a candidate for a third term, party managers in Congress agreed informally on Adams and Jefferson as the candidates of the Federalist and the Republican parties respectively. A caucus of Federalist Congressmen, in 1800, nominated Adams and Pinckney, and a caucus of Republican Congressmen nominated Jefferson and Burr, for the offices of President and Vice-President. The Republican members of Congress continued to hold a regular caucus and thus to direct the votes of the party electors until 1824. In that year William H. Crawford, the last Congressional nominee, was defeated. There was opposition to the Congressional caucus from the beginning, for such a method was regarded as undemocratic. In 1824 and 1828 the several State legislatures put forward their favorites for the office of President.

**Development of National Conventions.** — As early as 1812, De Witt Clinton was nominated as the candidate of the Federalists in a convention held in New York City, made up of seventy delegates, who represented eleven States. But the National nominating convention, as we know it, was used for the first time by the Anti-Masonic party, which selected William Wirt for its candidate in 1831. This method was followed in the same year by the National Republican party, which nominated Henry Clay. The National convention of the Democratic party in 1832 nominated Andrew Jackson, who had already been nominated by many local conventions and State legislatures. Many years elapsed before the present complex organization was reached, but since 1836, with the single exception of the Whig party in that year, parties have re-

garded the National convention as an essential factor in electing President and Vice-President.

Prior to the nominations for the Presidency in 1912, the usual plan was to select two delegates to the National convention from each of the Congressional districts, and also four delegates at large. The district delegates were chosen in the district conventions of the different parties, and the delegates at large in State conventions. In some of the States all of the delegates were selected in the State conventions.

It now seems probable before another Presidential election that some form of the *direct primary* will be in use in all of the States. The growth of sentiment in favor of the selection of delegates to the National convention by the direct primary has been most remarkable. Oregon, California, Nebraska, New Jersey, North Dakota, Wisconsin, Illinois, Maine, Maryland, Massachusetts, and Michigan passed such primary laws prior to the election of 1912. Pennsylvania had a modified primary law, and in a number of other States there were voluntary primaries.

**Election of Delegates to the National Conventions.** — The National conventions of the Republican and the Democratic parties are made up of twice as many delegates from the different States as these States have representatives and senators in Congress.

**The National Convention.** — The National convention is held in some leading city during the month of June or July of the year in which a President is to be elected. A few days before the time set for the convention, the delegates, together with many thousands of politicians and sight-seers, flock to that city. Headquarters are established and delegates are interviewed on behalf of the different candidates. On the day appointed, the convention is called to order by the chairman of the National committee, under whose auspices the convention is to be held. A temporary chairman is elected, and clerks and secretaries are appointed. Committees are also appointed, the most important being those on credentials and on resolutions. Each State delegation selects one of its members for each of the committees. In the next session, a permanent chairman is usually selected, and the committee on

resolutions presents its report, which sets forth the platform embodying party doctrines and principles. Nominations are then in order. The roll of States is called, and the various delegations place before the convention the favorite of their State. A State often waives its privilege in behalf of some other State which has a candidate to present. Again the clerk calls the roll of the States, and each chairman of a delegation announces the votes from his State. In the Republican convention a majority of the number of delegates voting is sufficient to nominate; but no nomination is possible in the Democratic convention except by a vote of two-thirds of the delegates. Then follows the selection of a candidate for Vice-President. In this choice the attempt is made to secure some man who will add strength to the party, and who comes from a different section of the country from that represented by the candidate for the Presidency. He may, as in the cases of Tyler and Johnson, represent a faction of the party that is not in entire agreement with the majority.

**The National Committee.** — A National committee is also appointed, made up of one member from each State, who is nominated by the State delegation. The wishes of the Presidential candidate are of influence in the choice of the chairman, who need not be a member of the convention. The committee occupies a position of great importance, for by it the platform of the party is largely determined. We have here a body of men not mentioned by the Constitution, but exerting vastly greater influence upon the election of President than does the electoral college itself. It organizes the campaign, secures money, selects speakers, and sends out party literature. The committee looks after the interests of the party during the ensuing four years and issues the call for the next National convention.

**Election of Electors.** — We are now ready to consider the place of the electors in the choice of a President. The nominations of candidates for the office of elector are usually made at the State conventions of the different parties when State tickets are nominated. These occur, ordi-

narily, in August or September preceding the November election. Each political party nominates as many electors as the State has senators and representatives in Congress. The names of the electors are then placed on the general party ticket, on which appear also the names of the candidates for President and Vice-President; each person then votes for the entire number of electors to which his State is entitled, and will naturally vote for all the electors on his party ticket. The political party, therefore, which receives the majority of votes in a State secures all the electoral votes of that State.[1]

**Vacancies in the Offices of Electors.** — Congress enacted in 1845 that each State might provide, by law, for the filling of vacancies in the electoral college, and that if any State failed to choose electors on the regular day, that they might be appointed on a later day in such manner as the State might, by law, direct. Nearly all of the State legislatures have conferred on the college itself the power of filling vacancies.

**Function of Electors.** — The steps prescribed by the Constitution must still be followed, although we know, long before the electors cast their votes, who the next President will be. The actual function of the electors is given in Amendment XII, as follows: —

*The electors shall meet in their respective States and vote*

[1] It has sometimes happened, however, when the election in a State has been close, that one or more of the electors on a minority ticket have run ahead of the other candidates on that ticket, and have secured a larger number of votes than candidates on the majority ticket, thus obtaining an election. California, in 1892, gave one electoral vote to Mr. Harrison and eight to Mr. Cleveland, and again, in 1896, gave eight votes to Mr. McKinley and one to Mr. Bryan. Kentucky, in 1896, cast twelve votes for Mr. McKinley and one for Mr. Bryan.

*by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign, and certify, and transmit, sealed, to the seat of government of the United States, directed to the President of the Senate; — the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; — the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right to choose shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.— The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole*

*number of electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.*

**Voting of the Electors.** — The formal election of President takes place on the second Monday in January, when the electors meet at their various State capitals and cast their votes. Separate ballots are given for Vice-President. Three separate sealed lists of the results are then prepared. Two of these are sent to the President of the Senate, one by mail and the other by special messenger. The third is deposited with the United States district judge of the district in which the electors meet. On the second Wednesday in February the votes are opened by the President of the Senate, in the presence of the Senate and the House of Representatives, and counted. That person having a majority of the electoral votes cast for President is declared to be duly elected. The one who has a majority of the electoral votes cast for Vice-President is also elected to that office.

**Election of President by the House of Representatives.** — In case no Presidential candidate receives a majority of the electoral votes, the election goes to the House of Representatives, as is provided in the amendment we are considering. Here the three candidates having the highest number of votes are alone considered. The

voting is by States. In 1825 John Quincy Adams was elected President in this way. He had fewer popular and fewer electoral votes than Andrew Jackson, but he received the votes of thirteen out of twenty-four States in the House.

**Choice of Vice-President by the Senate.** — The Senate is called on to select the Vice-President in case no candidate has received a majority of the electoral votes. The two candidates having the highest number of votes are considered. The only instance of the election of a Vice-President in this way occurred in 1837.

**Disputed Returns, Election of 1876.** — Disputes have arisen, from time to time, over some of the returns of the electoral votes. The most notable contest was that over the returns from Florida, Louisiana, South Carolina, and Oregon, in 1877. If the twenty-one electoral votes from these States should be counted for the Republican candidates, they would be elected. Should just one of those votes be given to the Democratic nominees, the Republicans would lose the election. Now the Senate at this time was Republican, and the House Democratic, and therefore no satisfactory adjustment could be reached, because of party prejudices. The excitement throughout the country was finally relieved by the agreement on the part of both houses to refer the decision to an "Electoral Commission."

This commission consisted of five judges of the Supreme Court, five representatives, and five senators. After examining the returns, the commission decided, March 2, 1877, by a vote of eight to seven, that Hayes and Wheeler, the Republican candidates, had received the twenty-one votes in dispute, thus giving them one hundred and eighty-five electoral votes, and that Tilden and Hendricks, the Democratic candidates, had received one hundred and eighty-four electoral votes.

In consequence of the grave problem which arose in 1877, Congress passed an act February 3, 1887, which provides that any contest in the choice of electors in a State must be decided by the State authorities under the laws of the State.

**The Original Method of Choosing the President.** — Because Presidents Washington, Adams, and Jefferson for his first term,

were chosen by the plan given in the original clause, let us notice, briefly, the method used at that time, and especially the reasons for the change to the present plan.

Section 1, Clause 2. *The electors shall meet in their respective States, and vote by ballot for two persons, one of whom, at least, shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person then having the greatest number of votes shall be President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such a majority, and have an equal number of votes, then the House of Representatives shall immediately choose, by ballot, one of them for President; and if no person have a majority, then, from the five highest on the list, the said House shall, in like manner, choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them, by ballot, the Vice-President.*

According to this clause, we note that the electors voted for two persons without stating which was to be President and which Vice-President. In the official count, the candidate receiving the highest number of votes, provided it was a majority of the whole number of the electoral votes, became President, and the one receiving the next highest became Vice-President.

**Election of 1796.** — In the election of 1796, John Adams, who received the highest number, seventy-one, out of one hundred and thirty-two electoral votes, was elected President. Thomas Jefferson, his opponent, became Vice-President, having received sixty-eight votes, or the next highest number. Thus there were elected a President of one party and a Vice-President of the opposing party.

**Election of 1800.** — The election of 1800 also showed the plan to be impracticable. At this time, the Democratic-Republican party was determined to have Mr. Jefferson for President and Aaron Burr for Vice-President. They both received seventy-three votes, a majority of all the votes. But since the number was equal, it devolved upon the House of Representatives to determine whether Jefferson or Burr should be President. For seven days the House was in continuous session, and civil war threatened. On the thirty-sixth ballot, however, Jefferson received the votes of ten States out of sixteen, and was elected.

In order to prevent a recurrence of the conditions which obtained in 1796, or of the dangers incident to a contest like that of 1800, the Twelfth Amendment was proposed by Congress, and, after ratification, was declared in force September 25, 1804. This provides, as we have seen, that the electoral votes must be cast separately for President and Vice-President.

**The Presidential Term.** — Shall the President hold office for a term of three years, of seven years, or during good behavior? These were questions of great interest in the Constitutional Convention. A term of seven years with no re-election was agreed upon, but toward the end of the convention the clause as given was adopted.

**Re-election of a President.** — The Constitution does not limit the number of terms for which a President may be chosen, but the "third-term tradition" has now made it practically impossible for the same man to be elected for more than two terms. This custom was inaugurated by the refusal of President Washington to accept a third term. President Jefferson was also urged to stand for a third term, but he, too, preferred to retire to private life as Washington had done. The adherents of General Grant strove to break down this precedent in 1880 but were defeated. Although President Roosevelt had served a part of a term and one full term the argument of a third term was brought against him.

**A Longer Term.** — It is frequently urged that the Constitution should be amended in such a manner as to provide for a term of six or seven years for the President, with no re-election. Among the

reasons for this change are the following: (1) a new President has most of his time, for months, at the beginning of his term, consumed in hearing the claims of applicants for office, and in making appointments; (2) there is danger that he may be influenced in his official actions through desire to secure a second term; (3) the commercial depression that usually exists during a campaign would thus come less frequently. These arguments may be used in opposition to such a change: (1) in the case of an inefficient President, the short term is to be preferred; (2) the Presidential campaign is of value, in that the attention of Americans generally is for a time fixed on the problems connected with the conduct of our government. It furnishes the opportunity for imparting to our citizens many lessons in their political education.

**Qualifications for President and Vice-President.** — The qualifications for President and Vice-President are naturally the same, and are as follows: —

Section 1, Clause 4. *No person, except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.*

**Vacancies.** — The chief reason for creating the office of Vice-President seems to have been to provide for the emergency of a vacancy in the Presidency.

Section 1, Clause 5. *In case of the removal of the President from office or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may, by law, provide for the case of removal, death, resignation, or inability both of the President and Vice-President, declaring*

*what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.*

**Presidential Succession.** — In 1886 Congress provided that in case of the death, resignation, or disability[1] of both President and Vice-President, the succession should be in the following order: Secretary of State, Secretary of the Treasury, Secretary of War, Attorney-General, Postmaster-General, Secretary of the Navy, Secretary of the Interior. The Secretary of Agriculture was added in 1889.

Should a cabinet officer become President, through this succession, he would hold the office for the unexpired term.

**Salary of the President.** — Section 1, Clause 6. *The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he may have been elected, and he shall not receive within that period any other emolument from the United States or any of them.*

In 1909 the salary of the President was changed from $50,000 to $75,000 a year. The custom has been established that no President shall receive a gift from any civil body, such as a city council, a State legislature, or a foreign state. In addition to his salary, the President is provided with an "executive mansion," the "White House,"

[1] What constitutes disability has not been settled. President Garfield performed only the single executive act of signing an extradition paper from July 2 to September 19, 1881. The fact of his inability to discharge the duties of President was not formally established. Nor was there declared disability in the case of President McKinley, between September 6 and the day of his death, September 14, 1901.

which is furnished at the expense of the government. The Vice-President receives $12,000 annually.

**Salaries of Foreign Rulers.** — The salary paid our President is small when we compare it with the grants made to European rulers. In 1901 the English government voted some $4,000,000 for the annual use of the royal household. The Czar of Russia receives $6,500,000 annually, in addition to revenues derived from 1,000,000 square miles of crown domains. The President of France receives $231,600 annually.

**Inauguration Day.** — One of the most notable of our civic festivals occurs on the fourth of March[1] after the Presidential election. Then thousands of people go to Washington to witness the inaugural exercises, by which the President and Vice-President are formally invested with their offices. The Constitution provides that the President shall take the following oath of office before entering on his duties: —

Section 1, Clause 7. *I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability preserve, protect, and defend the Constitution of the United States.*

It has been established, by custom, that the oath shall be administered by the Chief Justice of the United States, at the east front of the Capitol. After taking the oath the President gives his inaugural address, which outlines the

[1] It is frequently urged, with good reason, that this date should be changed to a time of year when the weather in Washington would be more favorable. An amendment, recently sanctioned by the Senate, provides that the date for the inauguration shall be the last Thursday of April. The chief objection to this change seems to be the further extension of time between the election and the assuming of duties.

policy he purposes to carry out. Immediately after his inauguration, unless it be his second term, he calls the Senate together, and places before it his nominations for members of the cabinet, and for such other important offices as he may desire to make.

## SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. Which of the Presidents have served two terms? How was their election for a second term to be accounted for?
2. The method of calling National political conventions. When held? Questions considered. Make a study of the last convention. Cosmop., 29 : 194–200; Scribner's Mag., 27 : 643–656.
3. Under what conditions was the first platform of a National convention agreed upon? Wilson, Division and Reunion, 63.
4. For the work of the National committee, see Rev. of R's, 22 : 549–556; 556–563.
5. The power of the chairman of the National committee is discussed in Atl. Mo., 89 : 76–81.
6. What was the probable origin of the system of electing the President by electors? Harrison, This Country of Ours, 78; Fiske, Critical Period of American History, 66, 280–289.
7. For the methods which have been used in electing a President, see N. Am. Rev., 171 : 273–280.
8. Should the President be elected by direct popular vote? N. Am. Rev., 171 : 273–280; 281–288; Scribner's Mag., 27 : 643–656.
9. For some of the problems connected with the electoral colleges in the history of elections, see Rev. of R's, 23 : 66–69.
10. What is the method used in counting the electoral votes? Edmund Alton, Among the Lawmakers, 88–89.
11. Do you agree with Mr. Bryce that the tendency is to select for President men who have not been prominent? Bryce, American Commonwealth, I, chap. 8.
12. Was the present President notable before his election? In what ways?
13. What were the chief causes for the success of his party?

14. How many electoral votes were required for election? He received how many? Did he receive a majority of the popular votes? Election of 1900, Rev. of R's, 22 : 673–674; 655–658.
15. How many electors were there from your State? For whom did they vote? How is this majority in your State to be accounted for? Rev. of R's, 22 : 673–674, 655–658, 664.
16. Would successful governors make good candidates for President? In what particulars do the offices resemble each other? Would you favor making the governor of your State President? Wilson, Congressional Government, 253, 254.
17. Why was the election of John Quincy Adams of especial interest? What results followed? Burgess, The Middle Period, 140, 141; Wilson, Division and Reunion, 18.
18. State the chief points connected with the "disputed election" of 1876. Wilson, Division and Reunion, 283–286; Johnston, American Politics, 233–237; Cent. Mag., 62 : 923–934.
19. Give the names of the Presidents who have died in office. By whom were they succeeded?
20. For a good discussion of the *unit rule* and *two-thirds* rule of the Democratic conventions, see Rev. of R's, 45 : 705–710.
21. What is a "minority" President? Government in State and Nation, 264.
22. An interesting account of the White House. Outlook, 70 : 287–299.
23. Inauguration events of 1901. Rev. of R's, 23 : 405 ,406; Outlook, 67 : 555, 556.
24. Incidents of Presidential inaugurations. World's Work, 1 : 477–479.
25. For other questions and references on the chapter, see Government in State and Nation, 231, 232.

## CHAPTER XIV.

### POWERS AND DUTIES OF THE PRESIDENT.

**Military Powers of the President.** — An eminent American historian,[1] writing of the power exercised by President Lincoln in time of war, said, "It is an interesting fact, that the ruler of a republic which sprang from a resistance to the English king and Parliament should exercise more arbitrary power than any Englishman since Oliver Cromwell, and that many of his acts should be worthy of a Tudor."

President Lincoln, it is true, exercised powers which, if attempted by a weaker man, or at another time, might have proved dangerous to the liberties of the people.[2] This he did through his interpretation of Clause 1, Section 2.

*The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.*

[1] James Ford Rhodes, *Scribner's Magazine*, February, 1903.

[2] For the suspension of the privilege of the writ of *habeas corpus*, see p. 109.

**Reprieves and Pardons.** — The ordinary powers of the President are also important.[1] One of the greatest is the power to grant reprieves and pardons. A reprieve is the temporary suspension of the execution of a sentence. By means of a reprieve the President may gain time to look into the evidence more carefully. Complete release from a sentence is secured by a pardon.[2]

**Treaty-Making Power.** — Section 2, Clause 2. *He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur.*

While the power to conclude treaties seems to be without restriction, it is implied that no treaty shall in any way interfere with the authority of the Constitution. The usual steps in the negotiation of treaties are as follows: (1) In time of peace they are conducted at the capital of the nation that begins the negotiation. If this is in Washington, the terms are considered by the Secretary of State and the minister of the other nation; if in a foreign capital, our minister acts under instructions sent him by the Secretary of State. At times, one or more special ministers are sent abroad for the purpose of negotiating a treaty. (2) In time of war, the minister of the nation with which we are at war leaves the United States. The interests of his nation are then intrusted to the minister of some neutral

[1] For the power of the President over legislation by means of the veto, see pp. 78, 79.

[2] President Harrison was called upon to consider 779 requests for pardon. Of these 527 were granted, wholly or partially. President Cleveland acted on 907 such cases, and granted 506, in whole or in part.

power, and through this minister negotiations for peace are usually begun. (3) The treaty of peace at the close of a war is generally negotiated in some neutral country by special commissioners appointed by the nations at war.

In all cases, the President exercises general control over the negotiation and framing of treaties. After an agreement has been reached, the treaty is sent to the Senate. It is discussed in executive or secret session. This means that the treaty and all matters pertaining to it are kept secret until, by a resolution, the Senate allows the discussion to be made public. The Senate may approve, reject, or modify the terms. If amendments are made, they must be agreed to by the President and by the other nation interested. When a treaty has been finally approved by the officials of both countries, duplicate copies of it are made on parchment. Both of these copies are signed by the chief officers of each country, and the copies are then exchanged. This is called the "exchange of ratification." An official copy of the treaty is thus secured by each nation. The President then publishes the treaty accompanied by a proclamation, in which it is declared to be a part of the law of the land.

If the terms of a treaty call for the payment of money by the United States, the necessary amount can be appropriated only by an Act of Congress. The House of Representatives may refuse to give its sanction to such an appropriation, and may thus prevent the treaty going into effect.

**Power of Appointment.** — When it is considered that the President has the *nominal* power of appointing over 150,000

persons to office, we can readily see that this comprises one of his chief powers. His right to select office-holders is granted in Section 2, Clause 2. *He shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the heads of departments.*

**Vacancies.** — Section 2, Clause 3. *The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.*

**Presidential Appointments.** — It would be quite impossible for the President, personally, to oversee all of these appointments, and so a large percentage of them is made by officials in the different departments. There are, besides the ambassadors, consuls, and judges of the Supreme Court, some 7000 so-called Presidential officers, whose appointments must receive the sanction of the Senate. More than one-half of these are postmasters of the first class.[1] Among the most important of these officers are the Cabinet, interstate commerce commissioners, district attorneys, and all military and naval officers whose appointment is not otherwise ordered by law.

[1] Those who receive an annual salary of $1000 and above.

**Official Patronage.** — In making his appointments the President is largely dependent upon the advice of the head of that department under whose direction the officer will come, or upon the recommendation of the representatives and senators of his party from the State in which the office is located. This official patronage, through which political assistants in a State may be rewarded with a Federal office, has become so burdensome that many Congressmen complain of it and desire to be freed from its exactions.

**Senatorial Courtesy.** — There has grown up an almost invariable custom, known as senatorial courtesy. This demands that if the office to be filled is located in a State, the appointment be not confirmed unless it receives the sanction of one or both of the senators of the State concerned, provided they are members of the same political party as the President.

**Action of the Senate on Nominations.** — All of the nominations sent by the President to the Senate are submitted to appropriate committees, as, postmasters to the Post Office Committee, ambassadors to the Committee on Foreign Affairs. The report of the committee is considered in secret session, and the nomination is then voted on. If the vote is adverse, the President must make another nomination.

**The Spoils System.** — During the first forty years of our government there were only seventy-four removals from office. The opinion was general that there were a large number of strictly non-political offices in the departments and elsewhere, the holders of which should be regarded as agents or clerks whose duty it was to assist in carrying on the business of government. Therefore the best results could be secured, it was believed, only as these positions should be filled by persons the most competent, who might hope to retain the office so long as they gave efficient service. But with the coming in of President Jackson the

"spoils system" was introduced. This system, in practice, provides that political workers belonging to a victorious party may, as far as possible, receive reward for their services in the shape of some office. "To the victors belong the spoils of the enemy" is the familiar motto of those who have advocated this system. During the first year of President Jackson's administration 2000 officials were deprived of their offices, and friends of the administration were put in their positions. From that time there has been great pressure on every new President similarly to reward his followers.

**Civil Service Reform.** — While the evils had been pointed out at various times, little was done to remedy the spoils system until Congress, in 1883, passed the Civil Service Law, known as the Pendleton Bill. It provides for a Civil Service Commission of three members, not more than two of whom may belong to the same political party. This commission gives competitive examinations, which are required for testing the fitness of applicants for certain positions in the public service. The number of offices originally included under the act was about 14,000. The President is given the power to direct the further extension of the "classified service," that is, those positions that are to be filled by persons who have passed the best examinations. In 1913 there were some 284,000 classified offices. While much has been accomplished, during the past twenty years, toward reforming civil service appointments, it is to be hoped that a large number of the unclassified offices will, at an early date, be placed on the list to be filled only after

examination.[1] The National government may thus further assist in the movement for like reforms already so well begun in some of our States and cities.

**Duties of the President.** — Section 3. *He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.*

**Presidential Messages.** — By means of the annual message sent to Congress at the opening of the session, and special messages on particular occasions, the President is enabled to call attention to the legislative needs of the country. The plan of having a message read in each house by the clerk or secretary was introduced by President Jefferson. Presidents Washington and Adams addressed, in person, Congress assembled in joint session. Various reasons have been alleged for this change. Presi-

[1] In 1913 there were 100,000 unclassified or excepted offices. During the year 1901–1902, the civil service rules providing for competitive examinations were extended by order of the President or by act of Congress so as to include the rural free delivery service, employees of the permanent census bureau, and additional employees made necessary because of the war with Spain. Five thousand eight hundred offices were placed on the competition basis in 1911, and 50,000 in 1913.

dent Jefferson was a poor speaker, and it is said that he regarded the formal address as monarchical. President Wilson read his message before Congress in the special session of April, 1913.

**Enforcement of the Laws.** — The most important duty of the President is to see that all laws passed by Congress are faithfully executed. Laws are useless unless they are enforced, and it is chiefly for the performance of this task that the Executive was originally created. It is not contemplated that this duty shall be performed by him in person, but through officials who are directly responsible to him. The United States marshals and their deputies exercise a wide influence in seeing that the laws are enforced. They usually act under an order from a United States court, but may, at times, act without such a writ. If necessary, the President may send the army and navy of the United States or call out the militia of the States to overcome any resistance to Federal law.

Each State possesses the power of enforcing its own laws and is of right protected in the exercise of this prerogative. In case of an insurrection, however, the State militia is sent by order of the governor to suppress it. Should they fail to restore order, the legislature, or the executive (when the legislature cannot be convened), applies to the President for military aid.[1] If the uprising has interfered in any way with the carrying out of the laws of the nation, the President may, at his discretion, send troops to suppress it without having been asked to do so by the legislature or the gov-

[1] Article IV, Section 4. *The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or the executive (when the legislature cannot be convened), against domestic violence.*

ernor. There was a notable illustration of this point during the time of the Chicago riots, in July, 1894.

**President Cleveland *vs.* The Governor of Illinois.** — In addition to destroying property belonging to the railways centering in Chicago, the striking employees prevented the free movement of the trains. Mr. Altgeld, then governor of Illinois, did not provide against these abuses, and President Cleveland ordered the United States troops under General Miles to suppress the rioting. The President, who was severely criticised by Mr. Altgeld, justified his sending the troops on the following grounds: (1) that the processes of the Federal courts could not be executed; (2) that the transportation of the United States mails was obstructed; and (3) that the laws on interstate commerce were not enforced.

The United States Supreme Court took the same position as President Cleveland in a case which grew out of these riots. Mr. Justice Brewer, in delivering the opinion of the court, said: "We hold that the government of the United States is one having jurisdiction over every foot of soil within its territory and acting directly upon each citizen; that, while it is a government of enumerated powers, it has within the limits of those powers all the attributes of sovereignty; that to it is committed power over interstate commerce and the transmission of the mails, and that these powers have been assumed and put into practical exercise by the legislation of Congress."

## SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. **What have been some of the most important treaties entered into on the part of the United States?**
2. **For the treaty made at the close of the Spanish-American War, see Rev. of R's, 18 : 258, 371, 515, 631; 19 : 11, 261, 262, 266, 267.**
3. **In what ways may a treaty be abrogated? Harrison, This Country of Ours, 140, 141.**
4. **May a President have many of the privileges of private life? Harrison, This Country of Ours, 177–180.**
5. **What are some of the official cares of the President? Harrison, This Country of Ours, 162–177.**

6. The overworked President. McClure's Mag., 28 : 483–492; Rev. of R's, 25 : 464–466.
7. Secure a copy of the last report of the Civil Service Commission, and also Manual of Examinations for the Classified Service of the United States, and look up the following: —
   *a*. How many persons are included in the civil service of the United States?
   *b*. What proportion of them is included in the classified service?
   *c*. Does the law of 1883 seem to have brought about satisfactory results?
   *d*. What offices have been included in the extension of the Civil Service Law?
   *e*. What is the nature of the questions asked in the examinations?
8. The Fifteenth Annual Report of the commission (pp. 443–485) contains an account of the appointments and removals by the various Presidents from 1789 to 1883. Also an account of the growth of civil service reform in the States and cities of the United States, pp. 489–502.
9. May a man be fitted for political preferment and not be competent to pass an adequate examination?
10. For other articles on civil service reform, see (*a*) The Civil Service and the Merit System, Forum, 27 : 705–712. (*b*) Some Popular Objections to Civil Service Reform, Atl. Mo., 65 : 433–444; 671–678. (*c*) Roosevelt, An Object Lesson in Civil Service Reform, Atl. Mo., 67 : 252–257. (*d*) George William Curtis and Civil Service Reform, Atl. Mo., 75 : 15–24. (*e*) Rice, Improvement of the Civil Service, N. Am. Rev., 161 : 601–611. (*f*) Roosevelt, Present Status of Civil Service Reform, Atl. Mo., 75 : 239–246. (*g*) Roosevelt, Six Years of Civil Service Reform, Scribner's Mag., 18 : 238–247. (*h*) The Purpose of Civil Service Reform, Forum, 30 : 608–619.
11. What was the Tenure of Office Act of 1867? Why did it become of great importance? Is it still in force? Wilson, Division and Reunion, 267, 270–271, 297; Harrison, This Country of Ours, 101–103.
12. What were the chief points discussed in the President's last annual message?

## CHAPTER XV.

### THE CABINET.

**Formation of Departments.** — The Constitution nowhere mentions the President's Cabinet. It was taken for granted, however, that departments similar to those found in the Cabinet would be formed. The Constitution declares that the President "may require the opinions in writing of the heads of the executive departments," and again, that "Congress may vest the appointment of certain inferior officers in the heads of these departments."

In 1789 the first Congress created the Departments of State, War, and Treasury, also the office of Attorney-General. President Washington's Cabinet consisted of the officials whom he appointed to fill these four positions. The Navy Department was added in 1798. While a Post-Office Department was established in 1794, the Postmaster-General was not made a member of the Cabinet until 1829. In 1849, the Interior Department was created by grouping under it certain duties which had belonged to other departments. The Department of Agriculture was made a Cabinet position in 1889. In 1903 the Department of Commerce and Labor was authorized by an Act of Congress, and in 1913 the Department of Labor was created. Members of the Cabinet receive an annual salary of $12,000.

**The President and His Cabinet.** — One of the first official acts of a President is to send to the Senate, for its approval, the names of the men whom he desires shall constitute his Cabinet. This is now a mere formality. The President is himself the one most interested in the success of his administration and is of right given complete freedom in selecting his immediate advisers. While the views of the members of the Cabinet usually have weight with the President, he is not obliged to take their advice. Indeed, in some instances the President has carried out a line of action which was against the wishes of the secretary of the department affected.

## The Department of State.

**The Secretary of State.** — The Secretary of State is commonly called the head of the Cabinet. He is first in rank at the Cabinet table, and occupies the seat of dignity at the right of the President. Under the direction of the President he conducts all negotiations relating to the foreign affairs of the nation; carries on the correspondence with our representatives in other countries; receives the representatives of foreign powers accredited to the United States, and presents them to the President. Through him the President communicates with the executives of the different States. He has charge of the treaties made with foreign powers, and negotiates new ones. He has also in his keeping the laws of the United States and the great seal which he affixes to all executive proclamations, commissions, and other official papers. During the year 1909

the department was reorganized in such a manner as to create a division of Latin-American affairs and divisions for Far Eastern, Near Eastern, and Western European affairs.

**The Diplomatic Bureau.** — The United States, in common with other nations, sends representatives to the foreign capitals. They are the agents through whom the Secretary of State communicates and negotiates with other powers. Such affairs are conducted through the Diplomatic Bureau. The United States has now about thirty-five ambassadors and ministers. Our representatives at the courts of England, France, Germany, Russia, Italy, Austria, Mexico, Brazil, Japan, and Turkey are known as ambassadors. The ambassadors to these countries receive a salary of $17,500 each.

The social demands made upon our ambassadors are great, and they are also obliged to provide for their places of residence. The salaries paid are not sufficient to meet these necessary expenses, and are small in comparison with those paid by the European nations to officers of the same rank. Thus, the English ambassador at Washington receives a salary of $32,500. Besides the English, the German, the Japanese, and some other nations have provided houses for their legations.

**The Consular Bureau.** — A consul is sent by the United States to each of the chief cities in the consular districts into which foreign countries are divided by our State Department. These consuls, of whom there are three grades, consuls-generals, consuls, and consular agents, look after the commercial interests of the United States in those dis-

tricts. They make monthly reports on improvements in agricultural and manufacturing processes. These reports also give information regarding good markets for our products and of the best markets in which to purchase foreign products.[1] Consuls care for destitute American sailors and protect the interests of our citizens in foreign countries. In some of the non-Christian nations, such as China and Turkey, they also have jurisdiction over all criminal cases in which any American citizen may be a party. The importance of such services to our country is self-evident. The appointment of these officials was formerly secured under party pressure. According to the rule adopted in 1906, all vacancies in the consular service are hereafter to be filled by promotion for ability and efficiency in the service or by appointment of those who have passed the civil service examination.

### The Department of the Treasury.

**The Secretary of the Treasury.** — The Department of the Treasury is the most extensive and complex of the executive departments. In general, the Secretary of the Treasury has charge of the finances of the nation. He is required to prepare plans for the creation and improvement of the revenues and the public credit and to superintend the collection of the revenue. He gives orders for all moneys drawn from the Treasury in accordance with

[1] Among scores of similar subjects, our consuls reported, within recent years, on the following: American goods in Syria; American commerce with Asia Minor and Eastern Europe; German opinion of American locomotives; American coal in Germany; European and American competition.

appropriations made by Congress, and submits an annual report to Congress which contains an estimate of the probable receipts and expenditures of the government.

**The Auditors.** — It is very important that the accounts of the government should be carefully scrutinized, and one of the six auditors connected with the Treasury Department must pass upon the accounts of every public officer who pays out money. Thus, the Auditor for the Treasury Department examines all accounts of salaries and incidental expenses of the office of the Secretary of the Treasury and all other offices under his immediate direction, such as the Treasurer and Directors of the Mints.

**The Treasurer.** — All the money of the United States is under the care of the Treasurer. He receives and pays it out upon the warrant of the Secretary of the Treasury or a designated assistant, redeems the notes of the National banks, and manages the Independent Treasury System. This system renders the Treasury Department practically independent of the banks of the country. It includes the Treasury at Washington and sub-treasuries, each in charge of an assistant treasurer at Boston, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis, New Orleans, and San Francisco. While the greater part of the money belonging to the government is found in these places, about two hundred National banks have also been designated as public depositories.

**The Chief of the Bureau of Engraving and Printing.** — The Bureau[1] of Engraving and Printing is one of the largest in the department and employs about 1600 people. It has been said that the products of this bureau, in the course of a single year, represent a sum equal in value to all the money in circulation in the United States; for here the engraving of the plates and the printing of all the United States circulating notes, bonds, revenue stamps, and postage stamps are done.

[1] The work of each department is usually distributed among the bureaus. Bureaus are again divided into divisions. At the head of each bureau is a commissioner, and of each division a chief.

**Other Officers of the Treasury Department.** — Among the other leading officials of the Treasury Department are: Comptroller of the Currency, Commissioner of Internal Revenue, General Superintendent of the Life-saving Service, Solicitor of the Treasury, Supervising Surgeon-General, and Supervising Architect.

**The Life-Saving Service.** — This is one of the most important offices in the Treasury Department. More than 2000 men are employed in the 273 stations, located generally at danger points on the oceans and the Great Lakes. Out of the 6000 lives imperiled in the year 1910 in the disasters on water, only 53 were lost. Of the 1463 vessels of all kinds in distress, 1407 were rendered assistance by life-savers. It has been estimated that over 230,000 lives have been saved through this service since it was founded in 1848.

**The Solicitor of the Treasury.** — The Solicitor of the Treasury is the law officer of the department, and has charge of all prosecutions by the government arising out of the counterfeiting of the government securities, or of the infringement of customs revenue, and of all suits for the collection of moneys due the United States, except those due under the internal revenue laws.

**The Supervising Surgeon-General.** — The Supervising Surgeon-General superintends the twenty-two marine hospitals where our sick sailors are cared for; conducts the quarantine service of the United States, and directs the laboratories for the investigation of the causes of contagious diseases.

## The War Department.

**The Secretary of War.** — The Secretary of War, under the direction of the President, has charge of the military affairs of the government. He supervises all estimates of

appropriations for the expenses of the department.[1] He has under his supervision also the military academy at West Point, all National cemeteries, and river and harbor improvement. The chiefs of the eleven bureaus are regular army officers.

**The Adjutant-General.** — The Adjutant-General issues orders for the muster of troops and for their movement, conducts the correspondence of the department, and keeps the records.

**The Inspector-General.** — The Inspector-General examines and reports on all places where United States troops are stationed; on public works carried on by army officers; and on the military academy and prisons.

**The Quartermaster-General.** — Under direction of the Quartermaster-General the army is transported, clothed, and equipped.

**The Chief of Ordnance.** — Arms are supplied by the Chief of Ordnance. The arms used are manufactured chiefly in the United States arsenals. The arsenals at Springfield, Mass., and Rock Island, Ill., manufacture rifles and carbines; and that at West Troy, N. Y., cannon and mortars.

**The United States Military Academy.** — The United States Military Academy at West Point was founded in 1802. The corps of cadets is made up of one cadet from each of the Congressional districts, one from each of the Territories and the District of Columbia, and one hundred from the United States at large. Prior to the year 1900 there were only ten cadets at large. The act of that year also provided that thirty cadets were to be named by the President directly and the remainder apportioned among the States. They all receive their appointments from the President, but it has become the custom for the representatives and delegates to select

[1] The annual appropriation by Congress for the army alone in 1912 amounted to $90,483,403.

(usually after a competitive examination) those from the Congressional districts and the Territories. The cadet must be between seventeen and twenty-two years of age. Each receives $540 a year during the four years of his course. Upon graduation, the cadets are commissioned as second lieutenants in the United States army. In case there are more graduates than vacancies, those in excess are honorably discharged with the payment of one year's salary.

## The Navy Department.

**The Secretary of the Navy.** — The duties of the Secretary of the Navy pertain to the construction, manning, arming, equipping, and employment of war-vessels.[1]

**The United States Naval Academy.** — The naval academy at Annapolis was established in 1846. One cadet is allowed in the naval academy for each member or delegate of the House of Representatives, one for the District of Columbia, and ten at large. Candidates for admission, at the time of their examination, must be between the ages of fifteen and twenty years. The nomination of a candidate to fill a vacancy is made upon recommendation of a representative or delegate if made before July 1; but if no recommendation be made by that time, the Secretary of the Navy fills the vacancy by appointing an actual resident of the district in which the vacancy exists. The President selects the candidates at large and the cadet for the District of Columbia. At the conclusion of the six years' course, two of which are spent at sea, the graduates are assigned in order of merit to the vacancies that may have occurred in the lower grades of the line of the navy and of the marine corps. Cadets who are not assigned to service after graduation are honorably discharged and are given $500, the amount they have received each year of their course at the academy.

[1] The appropriation for this department in 1913 was $140,000,000.

### The Department of Justice.

**The Attorney-General.** — The Attorney-General is the legal adviser of the President and of the heads of the departments. He supervises the work of all the United States district attorneys and marshals, and is assisted by the Solicitor-General. Unless otherwise directed, all cases before the Supreme Court and the Court of Claims in which the United States is a party are argued by the Attorney-General and the Solicitor-General.

### The Post-Office Department.

**The Postmaster-General.** — The Postmaster-General is at the head of this department. He appoints all of the officers of the department with the exception of the four assistant postmasters-general and postmasters of the first class, whose appointments are made by the President with the consent of the Senate. The Postmaster-General may, with the consent of the President, let contracts and make postal treaties with foreign governments.

**The Postal Union.** — Since 1891 the United States has been a member of the Universal Postal Union. By this union over fifty distinct powers became parties to an agreement by which uniform rates of postage were agreed upon and every facility for carrying mails in each country was extended to all the others.

### The Department of the Interior.

**The Secretary of the Interior.** — The Interior Department, under the supervision of the Secretary of the In-

terior, is one of the most complex and important of the departments. There are two assistant secretaries in the department, while at the head of the other offices are six commissioners and two directors.

**The Commissioner of the General Land Office.** — The Commissioner of the General Land Office has charge of all the public lands of the government, and supervises the surveys, sales, and issuing of titles to this property.

**The Commissioner of Education.** — The Commissioner of Education is the chief of the Bureau of Education. This bureau has charge of the collection of facts and statistics relating to the educational systems and to progress along educational lines in the several States and Territories, and also in foreign countries. The reports issued by the bureau are of great value to those interested in education. The commissioner has advisory power only, except in Alaska. Here he directs the management of the schools.

**The Commissioner of Pensions.** — The Commissioner of Pensions supervises the examination and adjustment of all claims arising under the laws of Congress granting bounty land or pensions on account of services in the army or navy during the time of war. That our government has not been ungrateful may be gathered from the report of the commissioner for 1913. There were in that year 921,000 pensioners, to whom were paid approximately $180,000,000, or an amount equal to about one-fifth of the total revenues of the country.

**The Commissioner of Indian Affairs.** — Prior to 1871 the Indian tribes were treated as independent nations by the United States, but by a law of that year the general government was made the guardian of their interests. The Commissioner of Indian Affairs exercises a protecting care over these "wards" by directing the work of the Indian agents and of the superintendents of Indian schools.

There are some 300,000 Indians on the 150 reservations which are

in the various States and Territories.[1] The lands of these reservations are held in common; that is, the ownership is tribal rather than individual. It is the policy of the government, however, to bring about the allotment of lands "in severalty," and thus to encourage the Indians to adopt an agricultural life. The Indians are only partially self-supporting. Some tribes derive an income from funds which are the proceeds derived from the sales and cessions of their lands. The National government holds this money in trust for them, and, by direct appropriation, supplies the money, food, and clothing necessary to complete their support. The appropriation for the Indians in 1912 was $9,854,000. Over one-fourth of this sum was spent for their education in Indian schools, numbering about 300, which are under the direct control of the department.

**The Director of the Geological Survey.** — The Director of the Geological Survey collects much valuable information through the examination of the geological structure, mineral resources, and mineral products of the United States. He has charge, also, of the survey of the forest reserves.

## The Department of Agriculture.

**The Secretary of Agriculture.** — The duties of the Secretary of Agriculture are, "To acquire and diffuse among the people of the United States useful information on subjects connected with agriculture in the most comprehensive sense of that word." The activities of the department are along many lines, as indicated by the names of the bureaus and divisions.

**Bureau of Animal Industry.** — Continuous advancement is being made by the government toward placing the agricultural pursuits upon a more scientific basis. One of its most important services is performed in the Bureau of Animal Industry, which inspects the

[1] Report of the Secretary of the Interior, 1910. Within twelve years 89,000 Indians were granted full rights as citizens.

greater part of the meat products exported to European countries. The law providing for this inspection was necessary because of the claim in European markets that diseased meats were shipped from the United States. An inspection is also provided for live animals intended for exportation and for animals imported. Much scientific work is also devoted to a study of the various diseases of animals.

**The Division of Seeds.** — Over $100,000 are expended each year by the Division of Seeds in the purchase of "rare and valuable" seeds, bulbs, and plants. These are distributed free throughout the country for the purpose of fostering the introduction of new and more valuable crops.

**Public Road Inquiries.** — Another important interest is carried on by the Office of Public Road Inquiries. Here experiments are made with regard to the best system of road-making and the best materials to be used for that purpose.

**Weather Bureau.** — Through the Weather Bureau daily forecasts and warning of storms are sent to over 50,000 different points, and storm signals are displayed at 300 places on our coasts. By its operation, millions of dollars are saved each year to the agricultural and maritime interests of the country. A recent decree of the Post-office Department renders the reports of the bureau of still greater service. Slips of paper having the storm, frost, or other warnings printed on them are distributed by the rural mail carriers at the various houses in the districts affected.

## The Department of Commerce.

**Nature of the Department.** — Because of the nature of the subjects assigned to this new department, it has rapidly become one of the most important of the departments. Among the duties of the Secretary of Commerce are these: to promote the commerce and the mining, manufacturing, shipping, fishery, and transportation interests of the United

States. The President is given the power to transfer to the department those bureaus in other departments which are engaged in scientific or statistical work, the Interstate Commerce Commission and the scientific divisions of the Agricultural Department being excepted. The offices which have been transferred are as follows: the Bureau of Statistics; Census Bureau; Bureau of Standards of Weights and Measures; Bureau of Navigation; the Steamboat Inspection Service; Bureau of Fisheries; Coast and Geodetic Survey and Light-house Board. The Bureau of Corporations was created for the department. The Commissioner of Corporations is expected to investigate the organization, conduct, and management of the business of corporations and other combinations engaged in interstate or foreign commerce, except such carriers as may be subject to the interstate commerce act.

**The Chief of the Bureau of Statistics.** — The Chief of the Bureau of Statistics collects and publishes the annual statistics on commerce. These reports are of such a character that they are invaluable to the President in the preparation of his messages; and they are used extensively by the heads of departments, members of Congress, and the public. Tariff laws, special legislation for particular industries, and all international trade treaties are also based on these compilations. The greatest demand is for the Annual Statistical Abstract, which presents in a condensed form the history of the commerce of the United States for a number of preceding years.

**The Superintendent of the Coast and Geodetic Survey.** — This officer superintends the survey of the coasts and rivers of the United States. He has charge of the publication of charts and sailing directions which are of inestimable value to mariners.

**The Light-House Board.** — The Light-house Board has charge of the light-houses, of which 1199 had been established previous to the year 1899, besides the light vessels and beacons used for the protection of navigation.

## The Department of Labor.

On March 4, 1913, the bill was signed by the President which created the Department of Labor. It is evidence of the spirit manifested by the Americans to make their government serve the cause of human conservation. Besides the Bureau of Information, which was created for the department, there were transferred from other departments the Bureau of Immigration[1] and the Children's Bureau. The Division of Naturalization was made a bureau, and the Bureau of Labor was constituted the Bureau of Labor Statistics.

### SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. **Does the President select the members of his Cabinet from among former members of Congress? Would this be desirable?**
2. **Have the members of the Cabinet ever been allowed to appear before Congress in the interests of their own departments? Would this be desirable? Walker, The Making of the Nation, 92; Bryce, American Commonwealth, I, Chapter 9; Atl. Mo., 65 : 771–772.**
3. **Who are now the heads of the executive departments? Were they prominent in National affairs before they were selected for these positions?**

[1] In 1912 there were 838,172 immigrants to the United States, and 2853 were refused admission. Of these there were 767 paupers, 31 contract laborers, 749 diseased persons.

4. In 1901 a bill was introduced in the House of Representatives which provided for an increase of the annual salary of the Vice-President to $25,000, and that of each member of the Cabinet to $15,000. What reasons can you give for or against such a change?
5. What was the history of the State Department prior to 1789? Harrison, This Country of Ours, 182–187.
6. Give a list of the Presidents who have been Secretaries of State. How do you account for this policy in the first years of our government, and not at a later time? Name some of the other prominent Secretaries of State.
7. Who are our ambassadors? Can you give the name of any foreign ambassadors in Washington? See Congressional Directory.
8. The methods by which our ministers are selected, take possession of their offices, and are presented at foreign courts, are described in Curtis, The United States and Foreign Powers, 15–21.
9. The duties of ministers. Curtis, The United States and Foreign Powers, 22–26.
10. Are our ambassadors given adequate salaries? Curtis, The United States and Foreign Powers, 13, 14.
11. From a consular report learn what the duties of a consul are? Curtis, The United States and Foreign Powers, 30–33.
12. For an account of our consular service, a comparison with that of other nations, and a consideration of some of the weaknesses in our system, see Curtis, The United States and Foreign Powers, 28–30.
13. A business man and the consular service. Century Mag., 60: 268–271.
14. Abuses in our consular system arising through appointment. Atl Mo., 85 : 455–466, and 669–683.
15. A plea for consular inspection. Forum, 30 : 28–34.
16. What is the great seal of the United States, and what is its use? Harrison, This Country of Ours, 199–200.
17. What is the particular work of the Marine Department? of the Steamboat Inspection Service? of the Marine Hospital? Lyman J. Gage, Organization of the Treasury Department, Cosmopolitan, 25 : 355–365.
18. What is the work of the Bureau of Engraving and Printing? Spofford, The Government as a Great Publisher, Forum, 19 : 338–349.

19. What is the extent of our merchant marine? Should it be increased? Statistical Abstract of the United States, 1900, 437–450.
20. From the appendix to the last Finance Report get the chief points connected with the work of the following officials: Treasurer, Chief of the Secret Service Division. A good description of the Treasury Department is given in Scribner's Mag., 33 : 400–411.
21. From the last report of the Bureau of Statistics find answers for the following: The expenditures of the government in the different departments; value of merchandise imported and exported; amounts of corn, wheat, cotton, wool, and iron produced, imported, and exported; the chief nationalities of immigrants, and comparison of the total number with previous years.
22. Are our coasts well defended? Harrison, This Country of Ours, 225.
23. Describe the work of the President, Secretary of War, Secretary of the Navy, and of the other Cabinet officers at the outbreak of war. Cosmop., 25 : 255–264.
24. For illustrated articles on education at West Point and Annapolis, see Outlook, 59 : 825–837, 839–849.
25. Comparison of our pension system with that of other nations. Forum, 33 : 346–348.
26. Defects in our pension system. Forum, 31: 670–680.
27. Changing character of the immigration to the United States. Rev. of R's, 24: 723, 724.
28. Why the Chinese should be excluded. Forum, 33 : 53–59.
29. Why the Chinese should be admitted. Forum, 33 : 50–68.
30. Influence of the allotment of land on the Indian. Forum, 34: 466–480.
31. Results of the work of experiment stations. Scribner's Mag., 31 : 643–660.
32. For accounts of the new Congressional Library, see Century Mag., 53 : 682–694; 694–711; Atl. Mo., 85 : 145–158; Cosmop., 23 : 10–20.
33. What is the special value of the work of the Bureau of American Republics? Forum, 30 : 21–27.

For other questions and references on the topics in this chapter, consult Government in State and Nation, 259, 260.

## CHAPTER XVI.

### THE NATIONAL JUDICIARY.

### Article III.

**Establishment of an Independent Tribunal.** — Alexander Hamilton characterized the lack of a judiciary as the crowning defect of government under the Confederation. If we consider the nature of our present government, it is easily seen that some form of independent tribunal is necessary. We have a central government exercising complete control over National affairs and foreign relations and, at the same time, the State governments with equally complete control over questions arising within their limits. If differences arise, then, as to the authority of National or State government over a given question, how are these disputes to be settled peaceably? After a brief discussion, the problem was answered in the Constitutional Convention by the formation of a Federal judiciary.

**Organization of the Judiciary.** — The organization of the judiciary is provided for as follows: Section 1. *The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their*

*offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.*

In 1789 Congress provided that the Supreme Court should consist of a chief justice and five associates. Circuit and district courts were also established. The Supreme Court at present consists of the chief justice and eight associate justices. It holds one session annually, at Washington, beginning on the second Monday in October and continuing until about May 1.

**District Courts.** — The territory of the United States has been divided into judicial districts, none of them crossing State lines and each having a district court. New York and Texas have each four districts; Alabama, Pennsylvania, and Tennessee three each; Arkansas, California, Florida, Georgia, Illinois, Iowa, Kentucky, Louisiana, Mississippi, Michigan, Missouri, North Carolina, Ohio, Oklahoma, Virginia, Washington, Wisconsin, and West Virginia two each; and the remaining States have each a single district. Alaska and Hawaii constitute a district. Generally there is a judge for each district, but a single judge is at times assigned to two districts.

**United States District Attorneys and Marshals.** — A district attorney and marshal are appointed by the President for each district court. The United States district attorney is required to prosecute all persons accused of the violation of Federal law and to appear as defendant in cases brought against the government of the United States in his district. The United States marshal executes the warrants or other orders of the United States district court, and, in general, performs duties connected with the enforcement

of the Federal laws which resemble the duties of sheriffs under State laws.

**Circuit Courts and Courts of Appeals.** — Established by the act of 1789, each circuit court was at first presided over by a justice of the Supreme Court and a district judge. The policy was to have as many circuit courts as there were justices of the Supreme Court. It was not until 1869 that a circuit judge was provided for each of the nine circuits. By an Act of Congress during the year 1911, in response to the agitation for a simplified Federal judicial system and greater expedition in the hearing of cases, the circuit courts were abandoned. Judges of these courts were transferred to the circuit courts of appeals. The circuit courts of appeals consist of three judges each, any two constituting a quorum. Supreme Court judges and district judges may sit in these courts. The Court of Claims was established in 1855 and consists of a chief justice and four associates. It holds an annual session in Washington.

**Terms and Salaries of the Judges.** — That the judiciary should be independent of parties and of other influences cannot be questioned. Hence the wisdom of the provision that United States judges shall hold their offices during good behavior and shall receive a compensation for their services which shall not be diminished during their continuance in office. Judges of the United States courts are appointed by the President with the consent of the Senate.

By an Act of Congress of 1911 the salary of the Chief

Justice was fixed at $15,000 per annum; that of associate justices, $14,500; and district judges, $6000.

**Jurisdiction of the National Courts.** — We are next to consider the jurisdiction of the several courts that have been described.

Section 2, Clause 1. *The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; — to all cases affecting ambassadors, other public ministers and consuls; — to all cases of admiralty and maritime jurisdiction; — to controversies to which the United States shall be a party; — to controversies between two or more States; — between a State and citizens of another State; — between citizens of different States; — between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign states, citizens or subjects.* A careful consideration of this clause shows the wide extent of the powers of the United States courts. It shows also the desirability of having all such cases under their jurisdiction rather than under the authority of the State courts. Associate Justice Brewer wrote, with reference to the influence of the decisions of the Supreme Court on the history of the country:[1] "Its decisions have always been in harmony with and sustaining the proposition that this republic is a nation acting directly upon all its citizens, with the attributes and authority of a nation, and not a

[1] "The Supreme Court of the United States," *Scribner's Mag.*, 33: 275, 276.

mere league or confederacy of States. The importance of this cannot be overestimated, and will be appreciated by all who compare the weakness of the old confederacy with the strength and vigor of the republic under the present Constitution."

**Suit against a State by a Citizen of Another State.** — In the notable case of Chisholm *vs.* Georgia in 1793, Chisholm, a citizen of North Carolina, began action against the State of Georgia in the Supreme Court of the United States. That court interpreted the clause as applying to cases in which a State is defendant, as well as to those in which it is plaintiff. The decision was received with disfavor by the States, and Congress proposed the Eleventh Amendment to the Constitution, which was ratified in 1798 and is as follows: —

*The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States, by citizens of another State, or by citizens or subjects of any foreign state.*

**Original and Appellate Jurisdiction.** — Clause 2. *In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.*

The Supreme Court has original jurisdiction in "all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party." Original jurisdiction means that these cases may be begun in the Supreme Court. Other cases are brought to the Supreme Court from the inferior United States courts or

from the supreme courts of the States and Territories by appeal. In such cases the Supreme Court is said to have appellate jurisdiction.

**Jurisdiction of the Inferior Courts.** — It is difficult in brief space to define minutely the province of each court The following accounts, therefore, give only a general description: —

The circuit courts of appeals are given final jurisdiction in certain cases appealed to them from the district courts, such as those arising under the patent, revenue, and criminal laws, as well as admiralty and other cases in which the opposing parties to a suit are an alien and a citizen, or are citizens of different States. There is reserved to the Supreme Court the decision of cases involving constitutionality.

The circuit courts of appeals have the final decision in nearly all other cases involving merely the application of ordinary law.

The jurisdiction of the district courts embraces criminal cases, admiralty cases, bankruptcy proceedings, suits for penalties, and the like. In general, the jurisdiction of cases formerly in the circuit courts was transferred to the district courts when the circuit courts were discontinued.

The Court of Claims "shall hear and determine all claims founded upon any law of Congress, or upon any regulation of an executive department, or upon any contract, express or implied, with the government of the United States, which may be suggested to it by a petition filed therein; and also all claims which may be referred to said court by either house of Congress." [1]

**Trial by Jury.** — The right of trial by jury in all criminal cases had been insisted upon by Englishmen for centuries prior to the formation of our Constitution. There were two branches to the system, the grand and the petit juries.

[1] 10 Statutes at Large, 612.

Each performed the same duties as they do now. The Constitution provides in Section 2, Clause 1, that

*The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where the said crime shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.*

This clause was attacked by the opponents of the Constitution in the State conventions. It was believed that the Constitution did not furnish adequate safeguards against unjust prosecutions. Because of this agitation, Congress, in its first session, proposed Amendments V, VI, VII, and VIII, which were duly ratified by the several States.

Amendment V. *No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, etc.*[1]

Authorities have had difficulty in giving an exact definition of an infamous crime. That given by Judge Cooley is the most satisfactory. He says: "But the punishment of the penitentiary must always be deemed infamous, and so must any punishment that involves the loss of civil or political privileges."

**The Grand Jury.** — A grand jury consists of from twelve to twenty-three men. They sit in secret, and no accusation can be made by them without the concurrence of at least twelve. An indictment is a written accusation of an offense drawn up by a prosecuting officer on behalf of the government and laid before the grand jury. "A present-

[1] See Appendix A.

ment is an accusation by a grand jury of an offense upon their own observation and knowledge, or upon evidence before them, and without any bill of indictment laid before them at the suit of government." [1] In the case of a presentment, the party accused cannot be held to trial until he has been indicted. After hearing the evidence, if the grand jury concludes that the accusation is not true, they write on the back of the bill, " Not a true bill " or " Not found." The accused, if held in custody, is then given his freedom, but he may be again indicted by another grand jury. If the grand jury decides that the accusation is true, they then write on the back of the bill, " A true bill " or " Found." The indicted person must be held to answer the charges made against him.

**Rights of the Accused.** — Amendment VI. *In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, etc.* (See Appendix A).

Amendment VII. *In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reëxamined in any court of the United States, than according to the rules of the common law.*

The accused must be given a public and speedy trial before an impartial jury, known as the petit jury, consisting of twelve men from the district wherein the crime was committed. The decision must be unanimous before a

[1] Story, "Commentaries on the Constitution," § 1784.

verdict can be rendered. The accused is given a copy of the indictment in which the nature of the accusation is clearly set forth and is granted time in which to prepare for his defense. Equally just and significant are the provisions that he shall be confronted by the witnesses against him, may compel the attendance of witnesses in his favor, and may employ counsel for his defense. In case he is not able to pay for his own counsel, the judge appoints one whose services are paid for out of the public treasury. If the verdict has been rendered by a jury and the judgment pronounced, the accused cannot be again brought to trial on the same charge.

### SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. What are the names of the members of the Supreme Court at present? Congressional Directory.
2. How large is the district in which your home is located? Who are the judges? Congressional Directory.
3. Under what conditions may a case be appealed from the supreme court of the State to the United States Supreme Court? Bryce, American Commonwealth, I, 228–230 (232–234).
4. How is the fact that conflicts between the authority of the Federal and the State courts do not arise, accounted for? Bryce, I, 234–235 (238).
5. Are the United States Courts influenced in their decisions by politics? Bryce, I, 259–261 (265–267).
6. Define treason and the punishment therefor. Constitution, Art. III, Sec. 3, Clauses 1 and 2. See Government in State and Nation, 268, 269.
7. Describe the influence of John Marshall as Chief Justice.
   (*a*.) John Marshall, American Statesmen Series, Chapters X and XI.
   (*b*.) Bryce, I, 261 (267).
   (*c*.) Lodge, "John Marshall, Statesman," N. Am. Rev., 172 : 191–204.
   (*d*.) John Marshall, Atl. Mo., 87 : 328–341.

8. Show how the development of our Constitution by interpretation has been brought about. Bryce, I, 366–375 (376–385).
9. What has been the influence of the Supreme Court in the history of our nation? Scribner's Mag., 33 : 273–284.

## CHAPTER XVII.

### TERRITORIES AND PUBLIC LANDS.

**The History of Territories.** — The first Territories of the United States were formed in the region lying north of the Ohio River and east of the Mississippi River. Here several of the original States (viz., Massachusetts, Connecticut, New York, and Virginia) had had claims, which they ceded to the general government during the period of the Confederation. This region was given the name Northwest Territory. It was governed under the Ordinance of 1787 enacted by Congress for this purpose. As settlers came into this region, Congress passed special acts for the government of the different Territories that were erected where now we find the States of Ohio, Indiana, Illinois, Michigan, and Wisconsin.

In like manner, the region lying south of Kentucky was ceded to the United States by the Carolinas and Georgia, and was then formed into Territories and governed by Congress. Next, the Louisiana Purchase, Florida, the Mexican Cession, and the Oregon Territory came under the control of Congress; a succession of Territories was thus created, all of which have now been admitted into the Union as States. In the government of these Territories, Congress has acted in accordance with an important power granted to it by the Constitution.

Article IV, Section 3, Clause 3. *The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.*

**The Government of Territories.** — Our Territories at present are Alaska, Porto Rico, and Hawaii.

The governing authorities in each are: (1) a governor, appointed by the President, with the consent of the Senate; (2) administrative officers — secretary, treasurer, auditor, attorney-general, adjutant-general, and superintendent of education, all appointed in the same way; (3) a legislature consisting of two houses, the members of the lower house, at least, being elected by popular vote; (4) a system of courts in which the judges are appointed by the President and Senate.

**Relations between Territories and Congress.** — A Territory is organized by an Act of Congress which provides for these officers and prescribes their powers. The Territorial legislature controls the internal affairs of the Territory; but its acts may be changed or vetoed by Congress. The people of a Territory have no voice in National affairs, but they elect a delegate to Congress, who may debate but not vote.

**Porto Rico.** — The government of Porto Rico is different at some points from that of the other organized Territories. The upper house of its legislature is the Executive Council and consists of the administrative officers of the Territory (secretary, treasurer, auditor, commissioner of the interior, attorney-general, and commissioner

of education) and five other persons appointed by the President. Five of the eleven members of this council must be natives of Porto Rico. The House of Delegates has thirty-five members, elected triennially by the voters. There is elected by the people a "resident commissioner" to the United States, who, unlike the delegates from other Territories, has no seat in Congress, but rather has official relations with the President.

**The Territory of Hawaii.** — Hawaii was annexed to the United States in 1898, and its government was established by Congress in 1900. The administrative officers in this Territory are appointed by the governor, instead of by the President. Voters in Hawaii must be able to read and write either the English or Hawaiian language.

**Alaska.** — By a law of 1912, Alaska was given for the first time a Territorial legislature, consisting of two houses, elected by the people.

**Our Government in the Philippine Islands.** — The Philippines constitute the largest part of "our insular possessions," and are not classed as Territories. The word "colonies" better expresses their relations to the United States. They are governed by a commission of nine members: the governor, four heads of departments (Americans), and four Filipinos. All are appointed by the President with the consent of the Senate. This commission constitutes the upper house of the legislative body; the lower house or assembly is elected from certain districts of the islands where the people are considered civilized and are at peace. Voters must be property-owners and be able to read and write English or Spanish.

The entire group of islands is divided into provinces. In some of these the people have local self-government; in others there is military government under the United States army. In many cities the government is similar to that of American cities.

Besides numerous other small islands the United States possesses Tutuila in the Samoan group, Guam, and Wake Island. These are governed directly by the naval authorities of the government.

The Panama Canal Zone is governed by the Isthmian Canal

Commission, consisting of seven men appointed by the President. The commission is subordinate to the War Department at Washington.

**Political Relations with Cuba.** — Cuba was under the control of our military authority between the time when our troops occupied the island, during the Spanish-American War, and the announcement of its independence in May, 1902. Although Cuba is now an independent republic, it is considered as a "protectorate" of the United States, and is subject to the influence of this nation in its dealings with other nations.

**The Admission of Territories to Statehood.** — While Territories depend to a greater or less extent upon the nation for their government, it has always been the policy of the United States to admit them into the Union as States when conditions became right for this action. That the power to admit States into the Union belongs exclusively to Congress is evident from the language of the Constitution:

Article IV, Section 3, Clause 1. *New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States or parts of States, without the consent of the legislatures of the States concerned as well as of the Congress.*

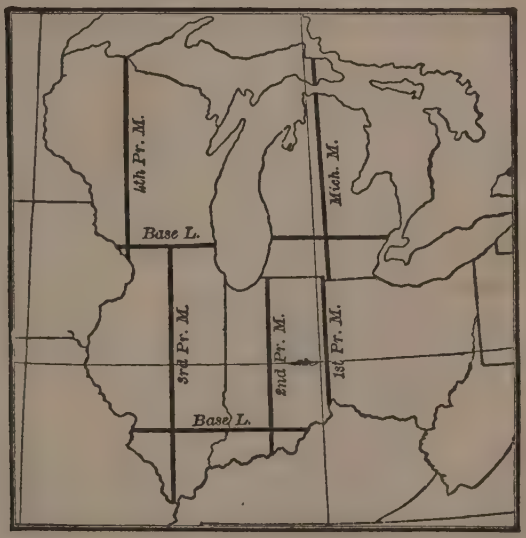
Territories first apply for admission to the Union, and then either of two processes may follow: (1) Congress passes an enabling act authorizing the Territory to frame a constitution, which is submitted to Congress for approval. (2) Or, the Territory frames its constitution without waiting for the enabling act; with this in its hand the Territory then applies to Congress for admission. In either case,

before giving its approval to the admission of a State, Congress must see that the constitution submitted contains nothing that is inconsistent with a republican form of government.

**Our Public Land Policy.** — In the Territories which lay between the Alleghany Mountains and the Mississippi River, and in all the acquisitions that have since been made, the unoccupied[1] lands became the property of the United States. So the National government became the possessor of many millions of acres of land, and it still holds immense tracts in the Western States and in its distant possessions. Upon the admission of a Territory as a State, the ownership of its public lands does not pass to the new State, but remains with the National government. The latter has followed a most liberal policy in dealing with its lands. (1) It has granted great amounts to the States. The school lands which are the basis of the common school funds in the Western States were acquired in this way. (2) Many thousands of square miles have been granted to railroad companies as aid in the construction of their lines. These lands are still being purchased at low rates by settlers in the West. (3) The "homestead law" provides that citizens may acquire 160 acres of land, or less, free of cost, on condition of living upon it for five years and improving it. (4) Millions of acres are still held by the government, subject to sale at low prices.

[1] Exceptions to this statement must be made to cover certain lands reserved by some of the original States that ceded their claims to the United States; as, for instance, the Western Reserve in Ohio retained by Connecticut, and other lands in the same State retained by Virginia.

At present the larger part of the public lands of the United States are arid; that is, they cannot be cultivated without irrigation. By a law of 1902, the proceeds received from the sale of public lands in certain Western




States and Territories will be expended by the National government in the construction of irrigation works. This law is destined to have a great influence upon the future of our Western States.

**The National System of Survey.** — In the thirteen original States there was no uniform system of land survey, but each tract of land was surveyed as necessity required,

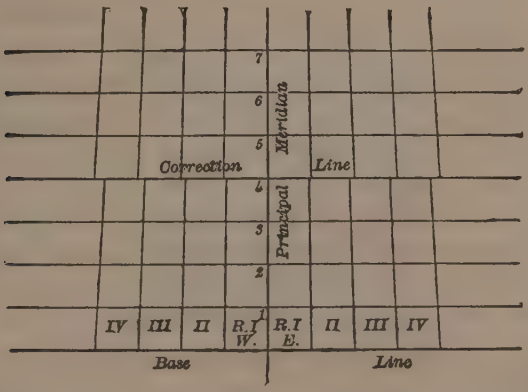
generally after settlement had been made upon it. The tracts were of very irregular shapes. The boundary lines, usually starting from some natural object, were measured by rods or chains, running in certain directions as ascertained by the use of the compass. This method of survey is still in use in the Eastern States. According to a law of 1785, a uniform system of "rectangular survey" was applied to all lands belonging to the United States. This survey has preceded settlers, and has to some extent influenced the method of settlement and the nature of local government throughout the West. The lands surveyed have been divided into townships six miles square. For the boundaries of townships the law requires the use of north-and-south and east-and-west lines. To secure starting points from which to run these lines, it was necessary to designate certain meridians as Principal Meridians and certain parallels as Base Lines.

**Method of Land Description.** — The map indicates the location of Principal Meridians and Base Lines in the States north of the Ohio River. Starting, then, from any Principal Meridian, the tier of townships directly east is called Range I; the other ranges are numbered east and west of that meridian. Counting also from the Base Line, the townships are numbered 1, 2, 3, etc., both north and south. It thus becomes possible to locate precisely any particular township by a simple description: *e.g.*, township 5 north, Range VIII east of the first Principal Meridian.

Since the eastern and western boundaries of townships are meridians, they approach nearer to each other as they

go farther north. Hence the townships become less than six miles from east to west as the survey proceeds northward from any base line. This necessitates the running of standard parallel lines, or correction lines, at frequent intervals, to be used as new base lines (Figure 1).

FIGURE 1.




To still further facilitate the sale and description of lands, the law provides for exact methods of subdividing the township into sections, one mile square, numbered as in Figure 2.

Each section is subdivided into rectangular tracts known as halves, quarters, half-quarters, and quarter-quarters. The designations of these divisions are by abbreviations and fractions. (See Figure 3.) The number of acres in each tract is easily computed.

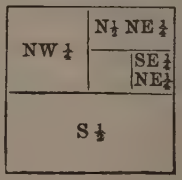
The rectangular system of survey has been a great aid in the subdivision and location of farm lands; it greatly

reduces the number of boundary disputes, it determines very largely the location of country roads. Moreover, the Congressional township has become, in a great many in-

FIGURE 2.—SIX MILES SQUARE.

| | | | | | |
|---|---|---|---|---|---|
| 6 | 5 | 4 | 3 | 2 | 1 |
| 7 | 8 | 9 | 10 | 11 | 12 |
| 18 | 17 | 16 | 15 | 14 | 13 |
| 19 | 20 | 21 | 22 | 23 | 24 |
| 30 | 29 | 28 | 27 | 26 | 25 |
| 31 | 32 | 33 | 34 | 35 | 36 |

FIGURE 3.—ONE MILE SQUARE.




stances, the area within which the political township or town has been organized. This town, however, need not coincide with the Congressional township; it may be greater or smaller in area.

## SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. For the history of land cessions, references are given in Government in State and Nation, p. 334, question 1.
2. The topics treated in this chapter are discussed in Harrison, This Country of Ours, pp. 270–279.
3. On public lands, see Reinsch, Young Citizen's Reader, 90–101. Marriott, Uncle Sam's Business, 175–184; 254–269.

## CHAPTER XVIII.

### AMENDMENTS TO THE CONSTITUTION.

**Methods of Amending the Constitution.** — We have already considered the effect of amendments on some of the original clauses.[1] It now remains to consider, briefly, the methods of amending the Constitution and a few other provisions found in the amendments. Article V provides for amendments as follows: —

*The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.*

Thus, amendments may be proposed in either of two

[1] For Amendment XI, see p. 160; for Amendment XII, see p. 119.

ways: by a vote of two-thirds of both houses of Congress; or by a National convention called by Congress for that purpose on the application of two-thirds of the State legislatures. The convention method has never been used in proposing amendments to this Constitution.

Amendments may also be ratified in two ways: by the legislatures in three-fourths of the several States; or by conventions in three-fourths thereof. Congress has always selected the first of these methods.

**Amending the Constitution Difficult.** — That it is difficult to amend the Constitution may be seen when we consider that some two thousand amendments have been proposed in an official way. During a single session of the Fifty-seventh Congress, fifty amendments, on twenty different phases of government, were proposed in one or other of the houses of Congress.

**Amendment XIII.** — The purpose of the first ten amendments has already been noted on p. 112.

The Thirteenth, Fourteenth, and Fifteenth Amendments were the results of negro slavery. The Emancipation Proclamation granted freedom to all of the slaves in the States then in rebellion. There were some States, however, as Kentucky, Tennessee, and Missouri, where slavery might still exist legally. In order to be rid of this institution altogether, Congress proposed the Thirteenth Amendment to the Constitution, which is as follows: —

*Neither slavery nor involuntary servitude, except as a pun-*

*ishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.*

*Congress shall have power to enforce this article by appropriate legislation.*

It was declared a part of the Constitution, December 18, 1865.

**Amendment XIV.** — This amendment was proposed by Congress, June 16, 1866, as a part of the general plan for reconstruction. The Southern States were not to be regarded as a part of the Union until they should ratify it. The entire amendment, given in Appendix A, should be read. Sections 1 and 2, however, contain the most important provisions. Section 1 has already been partially discussed on p. 95, under the question, "Who are citizens?" Section 2 has also been considered on p. 54, in connection with the apportionment of representatives.

Congress has at different times removed the disabilities from certain of the classes mentioned in Section 3. Finally, an act of June 6, 1898, removed the last disability imposed by this section.

**Amendment XV.** — In order to secure full political rights for the negroes, the Fifteenth Amendment was passed, as indicated on p. 51.

*The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.*

*The Congress shall have power to enforce this article by appropriate legislation.*

**Amendment XVI.** — *The Congress shall have power to lay or collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.*

This amendment, which provides for the laying of an income tax, was adopted by the thirty-sixth legislature, the requisite three-fourths, on February 3, 1913. It was hoped that the money supplied from this tax would make up for any loss of revenue due to the reduction of tariff duties. The new tax will affect those whose yearly incomes are in excess of a certain line of exemption.

**Amendment XVII.** — *The Senate of the United States shall be composed of two senators from each State, elected by the people thereof, for six years; and each senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.*

*When vacancies happen in the representation of any State in the Senate the executive authority of such State shall issue writs of election to fill such vacancies. Provided, that the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.*

*This amendment shall not be so construed as to affect the election or term of any senator chosen before it becomes valid as part of the Constitution.*

## SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. What facts can be given showing the difficulty of amending the Articles of Confederation? Fiske, Critical Period, 218–220.
2. Is it now considered difficult to amend the Constitution? Bryce, American Commonwealth, I, 359–362 (368–371).
3. What were the conditions under which the Emancipation Proclamation was issued? Wilson, Division and Reunion, 226–228.
4. Was the adoption of the Fifteenth Amendment a wise policy?
5. Give the arguments in favor of the Sixteenth Amendment.
6. What reasons can you give in favor of the Seventeenth Amendment?

## CHAPTER XIX.

### THE GOVERNMENTS OF THE WORLD.

**Kinds of Governments.** — It is customary to classify the governments of the world under two heads: (1) republics, (2) monarchies. The real nature of our republic may be made more apparent by a comparison of our system with that of other republics, and with the governments of certain great monarchies.

**Our Federal Republic.** — It has been emphasized in the course of our study that the States are important parts in the political system which we call the Republic of the United States. The States are not mere administrative divisions of the nation; they do not stand in the same relation to the National government that counties bear to the State. They do not derive their powers from the National government; nor, on the other hand, does the latter derive its powers from the States. The source of power for both is the same — "the people themselves, as an organized body politic." The United States is, then, a *Federal Republic*. It is essential to understand that, in the division of powers between States and nation, the latter is sovereign over the matters that are placed within its

jurisdiction; but it is a feature of our system no less essential (though less clearly understood by the people) that the States are as completely sovereign over matters that lie within their control.

**France a Centralized Republic.** — In France we find an entirely different type of republic — not federal, but centralized. France is divided into eighty-six departments, which correspond in some respects to our States. But in their relation to the central government the difference is very striking; for the departments are merely administrative divisions of the central government. They are completely subject to the national government. The chief authority in each department is a prefect, who is appointed by the ministry of France (the central executive body) and is responsible to it. There is a legislative body in each department, called the general council, but the powers of this body are very much restricted.

The national government of France exercises legislative authority upon many subjects in the departments, and it administers the laws directly. Consequently, the people's powers of local self-government are very much less extensive than those enjoyed by the people in the United States. There result in France much greater uniformity of legislation and more effective administration; while in many parts of the United States local self-government results in corrupt laws and wasteful administration. But we believe that the people will become educated in the use of political power if the responsibility for its use rests upon them, rather than upon some central authority.

**The Swiss Republic.** — An example of a federal republic is the government of Switzerland. Here the cantons correspond to our States, and each canton has control over its own local affairs, without interference from the federal government. The chief features of the French and the Swiss governments are indicated in the accompanying outline:[1]

| UNITED STATES | SWITZERLAND | FRANCE |
|---|---|---|
| *Congress*<br>*Senate*<br>Two members from each State<br>Six years | *Federal Assembly*<br>*State Council*<br>Two members from each canton | *The Chambers*<br>*Senate*<br>300 members elected by an electoral college in each department. |
| *House of Representatives*<br>433 members elected by people<br>Two years | *National Council*<br>147 members elected by people<br>Three years | *Chamber of Deputies*<br>591 deputies elected by people<br>Four years |
| *President*<br>Elected by electors, *i.e.*, by the people of the States<br>Four years | *President*<br>Elected by Federal Assembly<br>One year | *President*<br>Elected by National Assembly; *i.e.*, Senate and Chamber of Deputies in joint session<br>Seven years |
| *Cabinet*<br>Nine members appointed by President and Senate | *Federal Council*<br>Seven members elected by Federal Assembly | *Ministry*<br>Twelve members appointed by President |

[1] Among the South American republics, Brazil, Mexico, and Argentine Republic are federal in nature, like the United States and Switzerland.

**Constitutional Monarchies.** — Monarchies are classified as (1) constitutional and (2) absolute. In constitutional monarchies the ruler holds his position by heredity, but there exists also a constitution, which defines the distribution of powers among the branches that compose the government and fixes the limits of authority vested in each. The British constitution is partly written, as found in the great historical documents of English history, such as Magna Charta (1215), the Petition of Right (1628), and the Bill of Rights (1689);[1] and partly unwritten, consisting of precedents and customs which are recognized as authoritative. The constitutions of the other monarchies of Europe were made during the nineteenth century, and consequently they are younger than that of the United States.

In all the constitutional monarchies we find legislative bodies similar to our Congress. In every case the lower house is elected by the voters;[2] in England, the Austrian Empire, Italy, and Spain a number of the members of the upper house hold their position by hereditary right. In respect to legislation, therefore, the constitutional monarchies are all more or less republican in principle; that is, they all recognize the supreme authority of the people acting through their representatives.

An absolute monarchy is one in which the authority of the ruler is not held in check by a constitution or by a body of men elected by the people. No civilized country now has this form of government. Until recently there

[1] Compare the "Bill of Rights" in our Constitution; see pp. 256–260.

[2] Property qualifications for suffrage are common in European countries.

existed in Europe two absolute monarchies — Russia and Turkey.

**The Cabinet System of Government.** — In the relations existing between their legislative and executive depart-

| England | Germany |
|---|---|
| Monarch — hereditary in the line fixed by Parliament | Emperor — hereditary King of Prussia |
| *Cabinet* | *Ministry* |
| Nineteen members[1] chosen by the Prime Minister | Eight ministers, Chancellor at the head, appointed by the Emperor |
| *Parliament* | *Parliament* |
| Limit of term, seven years | Term, five years |
| *House of Lords* | *Bundesrath or General Council* |
| 586 members, holding seats (1) by heredity, (2) by appointment by crown, (3) by election[2] | 58 members appointed by the German States |
| *House of Commons* | *Reichstag or Diet of the Realm* |
| 670 members elected by the people of England, Scotland, and Ireland | 397 members elected by the people |

ments, the European governments differ considerably from that of the United States. In our government we find, in theory at least, that these departments are separated; in the European governments there is a close relation of

[1] The number of members in the ministries of England and Germany varies.

[2] Irish peers are elected for life, and Scottish peers are elected for the duration of a Parliament.

the legislative and executive branches, through some form of "cabinet responsibility." This "cabinet system" of government is found in the republics as well as in the constitutional monarchies of Europe, and in the self-governing British possessions, such as Canada and the Australian colonies.[1] The difference between the congressional and the cabinet systems is greater in appearance than in reality; for in the United States the President and his Cabinet exert considerable influence upon legislation.

**The Form and the Spirit of Government.** — The study of other governments and the comparison of them with our own will teach us that the virtue of a government resides, not in its framework, but in its spirit. A government may be monarchical in form and republican in its practical workings. In England, and in others of the European monarchies, the will of the people is the law of the land. On the other hand, a government may be republican in form, and very unrepublican in its methods of operation. There are cities and States in our country where one man, the political boss, or a group of men, the political machine, dictates the course of legislation and controls the administration of the law. Here we find, in reality, not republican governments, but despotisms or oligarchies.

The final test of a government is found in the responsiveness of the governing authorities to the will of the majority of the people. Wherever republican institutions are found,

[1] This system finds its best illustration in the English government, of which a brief description will be found in "Government in State and Nation," pp. 157–160. For references, see questions 14 and 15, p. 161.

whether in republics or in monarchies, the people may rule if they will. Monarchical and aristocratic institutions do not in our time stand long in opposition to a determined public opinion; and, on the other hand, a framework of republican institutions will not insure the execution of the popular will. This can only be secured where high-minded citizens are vigilant in the performance of their political duties.

### SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. **The relations of nations are governed by the rules of international law. Government in State and Nation, 301-303.**
2. **What progress has been made in the direction of settling disputes between nations by arbitration instead of by war? Government in State and Nation, 304-306.**

# APPENDIX A.

## CONSTITUTION

OF THE

## UNITED STATES OF AMERICA.

WE the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this CONSTITUTION for the United States of America.

### ARTICLE I.

SECTION I. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives.

SECT. II. 1. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

2. No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in

such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

4. When vacancies happen in the representation from any State, the Executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment.

SECT. III. 1. The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for six years; and each Senator shall have one vote. (See Amendment XVII.)

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies. (See Amendment XVII.)

3. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

4. The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

5. The Senate shall choose their other officers, and also a President *pro tempore*, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: and no person shall be convicted without the concurrence of two thirds of the members present.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SECT. IV. 1. The times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators. (See Amendment XVII.)

2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECT. V. 1. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

2. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two thirds, expel a member.

3. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one fifth of those present, be entered on the journal.

4. Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SECT. VI. 1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law and paid out of the treasury of the United States. They shall in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no

person holding any office under the United States shall be a member of either house during his continuance in office.

SECT. VII. 1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and, if approved by two thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SECT. VIII. The Congress shall have power:

1. To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

2. To borrow money on the credit of the United States;

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;

4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

6. To provide for the punishment of counterfeiting the securities and current coin of the United States;

7. To establish post offices and post roads;

8. To promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

9. To constitute tribunals inferior to the Supreme Court;

10. To define and punish piracies and felonies committed on the high seas and offences against the law of nations;

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

13. To provide and maintain a navy;

14. To make rules for the government and regulation of the land and naval forces;

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;

16. To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

17. To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State, in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings; — and

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or office thereof.

SECT. IX. 1. The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

3. No bill of attainder or *ex post facto* law shall be passed.

4. No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

5. No tax or duty shall be laid on articles exported from any State.

6. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another: nor shall vessels bound to, or from, one State, be obliged to enter, clear, or pay duties in another.

7. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

8. No title of nobility shall be granted by the United States: and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

SECT. X. 1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

3. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

## ARTICLE II.

SECTION I. 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the

term of four years, and together with the Vice-President, chosen for the same term, be elected as follows:

2. Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said house shall in like manner choose the President. But in choosing the President the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice-President.]

3. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

4. No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

5. In case of the removal of the President from office or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

6. The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

7. Before he enter on the execution of his office, he shall take the following oath or affirmation: — "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

SECT. II. 1. The President shall be commander in chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

SECT. III. He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient;

he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SECT. IV. The President, Vice-President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

## ARTICLE III.

SECTION I. The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

SECT. II. 1. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made or which shall be made, under their authority; — to all cases affecting ambassadors, other public ministers and consuls; — to all cases of admiralty jurisdiction; — to controversies to which the United States shall be a party; — to controversies between two or more States; — between a State and citizens of another State; — between citizens of different States; — between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign states, citizens or subjects.

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

SECT. III. 1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

## ARTICLE IV.

SECTION I. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

SECT. II. 1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

2. A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

3. No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SECT. III. 1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned as well as of the Congress.

2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

SECT. IV. The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or

of the executive (when the legislature cannot be convened) against domestic violence.

## ARTICLE V.

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several States, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendments which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

## ARTICLE VI.

1. All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

## ARTICLE VII.

The ratification of the conventions of nine States, shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

Done in Convention by the unanimous consent of the States present, the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty-seven and of the Independence of the United States of America the twelfth. In witness whereof we have hereunto subscribed our names.

[Signed by] G° WASHINGTON,
*Presidt and Deputy from Virginia.*

NEW HAMPSHIRE.
John Langdon,
Nicholas Gilman.

MASSACHUSETTS.
Nathaniel Gorham,
Rufus King.

CONNECTICUT.
Wm. Saml. Johnson,
Roger Sherman.

NEW YORK.
Alexander Hamilton.

NEW JERSEY.
Wil: Livingston,
David Brearley,
Wm: Paterson,
Jona: Dayton.

PENNSYLVANIA.
B Franklin,
Thomas Mifflin,
Robt. Morris,
Geo. Clymer,
Tho. Fitz Simons,
Jared Ingersoll,
James Wilson,
Gouv Morris.

DELAWARE.
Geo: Read,
Gunning Bedford, Jun,
John Dickinson,
Richard Bassett,
Jaco: Broom.

MARYLAND.
James McHenry,
Dan of St. Thos Jenifer,
Danl Carroll.

VIRGINIA.
John Blair,
James Madison, Jr.

NORTH CAROLINA.
Wm. Blount,
Richd. Dobbs Spaight,
Hu Williamson.

SOUTH CAROLINA.
J. Rutledge,
Charles Cotesworth Pinckney,
Charles Pinckney,
Pierce Butler.

GEORGIA.
William Few,
Abr. Baldwin.

Attest: William Jackson, *Secretary.*

ARTICLES IN ADDITION TO AND AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA, PROPOSED BY CONGRESS, AND RATIFIED BY THE LEGISLATURES OF THE SEVERAL STATES, PURSUANT TO THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION.

ARTICLE I. — Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people

peaceably to assemble and to petition the government for a redress of grievances.

ARTICLE II. — A well-regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

ARTICLE III. — No soldier shall, in time of peace be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV. — The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V. — No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI. — In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

ARTICLE VII. — In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

ARTICLE VIII. — Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX. — The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE X. — The powers not delegated to the United States by

the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI. — The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign state.

ARTICLE XII. — 1. The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate; — the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; — the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. — The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

ARTICLE XIII. — Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV. — Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of Electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or Elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two thirds of each house, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of

insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

ARTICLE XV. — Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XVI. — The Congress shall have power to lay and collect taxes on incomes from whatever source derived, without apportionment among the several States and without regard to any census or enumeration.

ARTICLE XVII. — Section 1. The Senate of the United States shall be composed of two senators from each State, elected by the people thereof, for six years; and each senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

Section 2. When vacancies happen in the representation of any State in the Senate the executive authority of such State shall issue writs of election to fill such vacancies, Provided, that the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

Section 3. This amendment shall not be so construed as to affect the election or term of any senator chosen before it becomes valid as part of the Constitution.

# APPENDIX B.

## ARTICLES OF CONFEDERATION.

*Articles of Confederation and Perpetual Union between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.*

ARTICLE I. — The style of this Confederacy shall be, "The United States of America."

ART. II. — Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States in Congress assembled.

ART. III. — The said States hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever.

ART. IV. — The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and egress to and from any other State, and shall enjoy therein all the privileges of trade and commerce subject to the same duties, impositions, and restrictions as the inhabitants thereof respectively; provided that such restrictions shall not extend so far as to prevent the removal of property imported into any State to any other State of which the owner is an inhabitant; provided also, that no imposition, duties, or restriction shall be laid by any State on the property of the

United States or either of them. If any person guilty of, or charged with, treason, felony, or other high misdemeanor in any State shall flee from justice and be found in any of the United States, he shall, upon demand of the governor or executive power of the States from which he fled, be delivered up and removed to the State having jurisdiction of his offense. Full faith and credit shall be given in each of these States to the records, acts, and judicial proceedings of the courts and magistrates of every other State.

ART. V. — For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the Legislature of each State shall direct, to meet in Congress on the first Monday in November in every year with a power reserved to each State to recall its delegates, or any of them, at any time within the year, and to send others in their stead for the remainder of the year. No State shall be represented in Congress by less than two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States for which he, or another for his benefit, receives any salary, fees, or emolument of any kind. Each State shall maintain its own delegates in any meeting of the States and while they act as members of the Committee of the States. In determining questions in the United States in Congress assembled, each State shall have one vote. Freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress; and the members of Congress shall be protected in their persons from arrest and imprisonment during the time of their going to and from, and attendance on, Congress, except for treason, felony, or breach of the peace.

ART. VI. — No State, without the consent of the United States, in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty with any king, prince, or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title of any kind whatever from any king, prince, or foreign state; nor shall the United States, in Congress assembled, or any of them, grant any title of nobility.

No two or more States shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States, in Congress assembled, specifying accurately the

purposes for which the same is to be entered into, and how long it shall continue.

No State shall lay any imposts or duties which may interfere with any stipulations in treaties entered into by the United States, in Congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by Congress to the courts of France and Spain.

No vessels of war shall be kept up in time of peace by any State, except such number only as shall be deemed necessary by the United States, in Congress assembled, for the defense of such State or its trade, nor shall any body of forces be kept up by any State in time of peace, except such number only as, in the judgment of the United States, in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defense of such State; but every State shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutered, and shall provide and constantly have ready for use in public stores a due number of field-pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

No State shall engage in any war without the consent of the United States, in Congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such State, and the danger is so imminent as not to admit of a delay till the United States, in Congress assembled, can be consulted; nor shall any State grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States, in Congress assembled, and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States, in Congress assembled, unless such State be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States, in Congress assembled, shall determine otherwise.

ART. VII. — When land forces are raised by any State for the common defense, all officers of or under the rank of Colonel shall be appointed by the Legislature of each State respectively by whom such forces shall be raised, or in such manner as such State shall direct, and all vacancies shall be filled up by the State which first made the appointment.

ART. VIII. — All charges of war, and all other expenses that shall

be incurred for the common defense, or general welfare, and allowed by the United States, in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States in proportion to the value of all land within each State, granted to, or surveyed for, any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States, in Congress assembled, shall, from time to time, direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the Legislatures of the several States, within the time agreed upon by the United States in Congress assembled.

ART. IX. — The United States, in Congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth Article; of sending and receiving ambassadors; entering into treaties and alliances, provided that no treaty of commerce shall be made, whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatever; of establishing rules for deciding, in all cases, what captures on land and water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated; of granting letters of marque and reprisal in times of peace; appointing courts for the trial of piracies and felonies committed on the high seas; and establishing courts for receiving and determining finally appeals in all cases of captures; provided that no member of Congress shall be appointed a judge of any of the said courts.

The United States, in Congress assembled, shall also be the last resort on appeal in all disputes and differences now subsisting, or that hereafter may arise between two or more States concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: Whenever the legislative or executive authority, or lawful agent of any State in controversy with another, shall present a petition to Congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining

the matter in question; but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as Congress shall direct, shall, in the presence of Congress, be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination; and if either party shall neglect to attend at the day appointed, without showing reasons which Congress shall judge sufficient, or being present, shall refuse to strike, the Congress shall proceed to nominate three persons out of each State, and the secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court, to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive; the judgment or sentence and other proceedings being in either case transmitted to Congress, and lodged among the acts of Congress for the security of the parties concerned; provided, that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the State where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward." Provided, also, that no State shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil claimed under different grants of two or more States, whose jurisdictions, as they may respect such lands, and the States which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the Congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

The United States, in Congress assembled, shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective

States; fixing the standard of weights and measures throughout the United States; regulating the trade and managing all affairs with the Indians, not members of any of the States; provided that the legislative right of any State, within its own limits, be not infringed or violated; establishing and regulating post offices from one State to another, throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office; appointing all officers of the land forces in the service of the United States, excepting regimental officers; appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States; making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States, in Congress assembled, shall have authority to appoint a committee, to sit in the recess of Congress, to be denominated "A Committee of the States," and to consist of one delegate from each State, and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction; to appoint one of their number to preside; provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses; to borrow money or emit bills on the credit of the United States, transmitting every half year to the respective States an account of the sums of money so borrowed or emitted; to build and equip a navy; to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in such State, which requisition shall be binding; and thereupon the Legislature of each State shall appoint the regimental officers, raise the men, and clothe, arm, and equip them in a soldier-like manner, at the expense of the United States; and the officers and men so clothed, armed, and equipped shall march to the place appointed, and within the time agreed on by the United States, in Congress assembled; but if the United States, in Congress assembled, shall, on consideration of circumstances, judge proper that any State should not raise men, or should raise a smaller number than its quota, and that any other State should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped in the same manner as the quota of such State, unless the Legislature of such State shall judge that such extra number can-

not be safely spared out of the same, in which case they shall raise, officer, clothe, arm, and equip as many of such extra number as they judge can be safely spared, and the officers and men so clothed, armed, and equipped shall march to the place appointed, and within the time agreed on by the United States, in Congress assembled.

The United States, in Congress assembled, shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defense and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander in chief of the army or navy, unless nine States assent to the same, nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States, in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations as in their judgment require secrecy; and the yeas and nays of the delegates of each State, on any question, shall be entered on the journal when it is desired by any delegate; and the delegates of a State, or any of them, at his or their request, shall be furnished with a transcript of the said journal except such parts as are above excepted, to lay before the Legislatures of the several States.

ART. X. — The Committee of the States, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States, in Congress assembled, by the consent of nine States, shall, from time to time, think expedient to vest them with; provided that no power be delegated to the said Committee, for the exercise of which, by the Articles of Confederation, the voice of nine States in the Congress of the United States assembled is requisite.

ART. XI. — Canada, acceding to this Confederation, and joining in the measures of the United States shall be admitted into, and entitled to all the advantages of this Union; but no other colony

shall be admitted into the same, unless such admission be agreed to by nine States.

ART. XII. — All bills of credit emitted, moneys borrowed, and debts contracted by or under the authority of Congress, before the assembling of the United States, in pursuance of the present Confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

ART. XIII. — Every State shall abide by the determinations of the United States, in Congress assembled, on all questions which by this Confederation are submitted to them. And the Articles of this Confederation shall be inviolably observed by every State, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the Legislatures of every State.

AND WHEREAS it hath pleased the great Governor of the world to incline the hearts of the Legislatures we respectively represent in Congress to approve of, and to authorize us to ratify, the said Articles of Confederation and perpetual Union, know ye, that we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said Articles of Confederation and perpetual Union, and all and singular the matters and things therein contained. And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States, in Congress assembled, on all questions which by the said Confederation are submitted to them; and that the Articles thereof shall be inviolably observed by the States we respectively represent, and that the Union shall be perpetual. In witness whereof, we have hereunto set our hands in Congress. Done at Philadelphia, in the State of Pennsylvania, the ninth day of July, in the year of our Lord 1778, and in the third year of the Independence of America.

# APPENDIX C.

## REFERENCE BOOKS.


ALTON, *Among the Lawmakers*, Scribner.
ASHLEY, *The American Federal States*, Macmillan.
BREWER, *American Citizenship*, Scribner.
BROOKS, *How the Republic is Governed*, Scribner.
BRYCE, *The American Commonwealth*, Macmillan.
BURGESS, *The Middle Period*, Scribner.
*Century Book for Young Americans*, Century Co.
CONKLING, *City Government in the United States*, Appleton.
CURTIS, *The United States and Foreign Powers*, Scribner.
DEVLIN, *Municipal Reform in the United States*, Putnam.
DOLE, *Talks About Law*, Houghton Mifflin Co.
DOLE, *Young Citizen*, Ginn.
FISKE, *Civil Government in the United States*, Houghton Mifflin Co.
FISKE, *Critical Period of American History*, Houghton Mifflin Co.
HARRISON, *This Country of Ours*, Scribner.
HART, *Formation of the Union*, Longmans, Green & Co.
HILL, *Lessons for Junior Citizens*, Ginn & Co.
HOLT, *Talks on Civics*, Macmillan.
HOXIE, *How the People Rule*, Silver, Burdett & Co.
MACY, *Our Government*, Ginn.
MARRIOTT, *Uncle Sam's Business*, Harpers.
Newspaper Almanacs.
REINSCH, *Young Citizen's Reader*, Sanborn.
ROBINSON, *Elementary Law*, Little, Brown & Co.
SLOANE, *The French War and the Revolution*, Scribner.
THWAITES, *The Colonies*, Longmans, Green & Co.
WILSON, *Division and Reunion*, Longmans, Green & Co.

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# THE GOVERNMENT OF WISCONSIN

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G

# PREFACE.

In revising this text, which has now been in use for nearly a decade, the purpose of the authors has been to make it better adapted for use in the schools and to include statements of the latest enactments of law. Teachers are strongly urged to *teach first the Wisconsin government*, following that by the discussion of the National government in the first half of the book. This is the pedagogical order; for in the study of local and State institutions pupils acquire many concrete ideas that are essential to their understanding of the National government.

The State Legislature of 1911, in amending Section 447 of the Statutes, made a change in the language which, though slight, may yet be very significant. The law now requires that "the civil government of the United States and of the State of Wisconsin" shall be taught in every district school. It is hoped that the use of the term "civil government," instead of "Constitution," will call attention to the former great neglect in civics classes of those simple and ordinary operations of government which pupils may witness almost daily; and to the opportunity which these topics give for the teaching of *good citizenship*, the real end of all study of this branch.

Much space has been devoted to the treatment of government in the local units. Many abstract and unusual topics mentioned in the Constitution have been omitted, since their study should not be undertaken by the younger

students. A generation ago the rural schools had as pupils many of the older boys and girls who could understand, in a measure, such topics. To-day the situation is quite different.

It is recognized, however, that there is considerable value in the study of the exact text of the Constitution. Consequently many of the simpler clauses have been included in the text. In many cases the articles and sections of the Constitution do not appear in their original order, but they have been grouped logically for the sake of simplicity and clearness. The student has abundant opportunity to consult the entire document in its original form in the Blue Book. For this reason also the Constitution has not been repeated as an appendix.

Teachers and pupils should make much use of the suggestive questions, since it is in the discussion of these that some of the most valuable lessons are to be found. The Blue Book should be at hand for constant consultation. Illustrative materials, such as those mentioned on pages 26, 88, 98, 99, are readily obtainable, either free of cost or at trifling expense, at the offices of lawyers and local officers, and from printers of legal blanks.

To Professor J. A. James, the editor of this series of State editions accompanying "Our Government: Local, State, and National," the author is deeply indebted for the inspiration to undertake this and the other work which we have done in collaboration. To him and to other friends who have read portions of the manuscript due acknowledgments of obligation are now made.

La Crosse, Wis., *June*, 1912.

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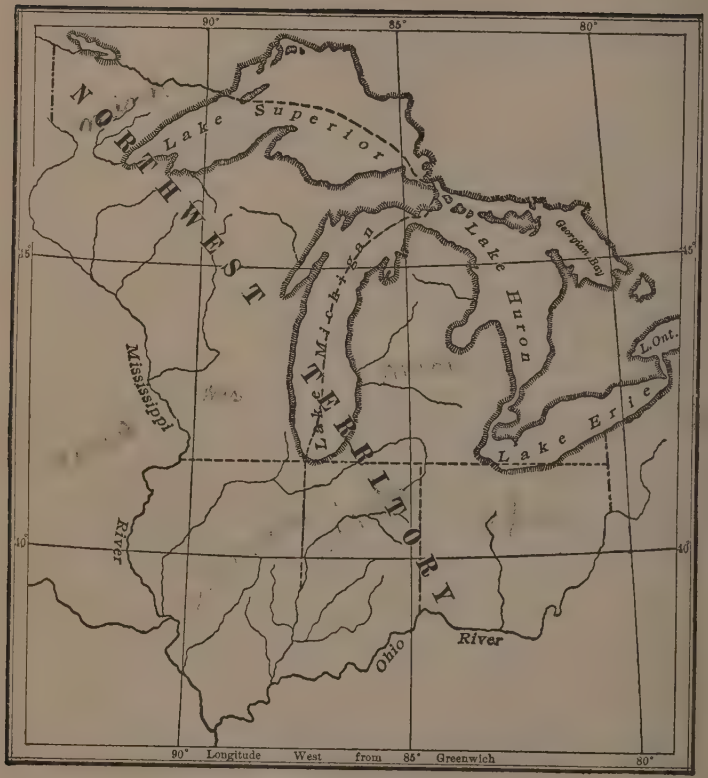


NORTHWEST TERRITORY.

# THE GOVERNMENT OF WISCONSIN.

## CHAPTER I.

### WHAT GOVERNMENT IS AND DOES.

**Government That We Can See.** — Every boy and girl has learned something about the government under which we live. All know that the public school is under the control of public officers; the school meeting, the school board, and school taxes are frequent topics of conversation. In the spring of the year we hear of town meeting and the local election; while the fall election brings the political campaign with its interesting events. The constable, justice of the peace, and policeman are among the first officers of government to attract our notice.

To those who live in a village, the village board and its management of the streets, sidewalks, and lights are matters of great interest. In the city the mayor is the most important officer, and the activity of this and other officers can be constantly seen as they arrest criminals, protect property from fire, establish parks, and do many other things. We hear also about the county, with its "county seat," its court-house and judges, the jail, kept by the sheriff, and the clerk and treasurer. When one thinks of the State government, the governor and the legislature

come to mind at once; while the President, Congress, and the Supreme Court are familiar to us as instruments by which the United States Government is carried on.

**Government in History Lessons.** — Our history lessons have told of the earliest settlers who came to America, founding Jamestown, Plymouth, Boston, and many other towns. In each place the settlers found it necessary to have government, and when a number of towns were grouped together they constituted a colony. So grew up the thirteen English colonies that later rebelled against the government of England. In each colony were found officers and laws, so that when they became independent of England they were States. At the same time the States began to act together in carrying on the Revolutionary War, and so came about the United States and its government. This was at first merely the Continental Congress; later the government was based upon the Articles of Confederation, and finally the Constitution was adopted, providing for a more complete and satisfactory government.

Other history lessons have told how, when people crossed the Alleghany Mountains and settled in the West, new governments were necessary; also, how the United States acquired first one and then other regions which were added to its area. Wherever people formed new communities they soon established governments. These were not independent of each other, however, but as each new community was formed it was finally "admitted into the Union" as a State. Its people not only took part in their own government, but also shared in that of the United

States. Thus, in the year 1848, Wisconsin became a member of the Union.

**Different Kinds of Government.** — The various governments whose history we have studied and under which we were born and now live are *political*. But we can readily find governments of other kinds. In the home, on the playground, in every society and church organization government must exist to a greater or less extent. People cannot live together and act in common without well-understood rules that guide their conduct. Then it is very convenient to have some persons (called officers) take the lead and do things for the entire body of people.

**The Work of Government.** — We find government, then, wherever we find people living in communities and acting together. The work of government may be stated under three heads:

1. *Government decides what shall and what shall not be done.* Shall a new road be laid out or a street be macadamized? Shall cattle be allowed to run at large or dogs be muzzled? Shall a new school-house be built? Shall the employment of children under fourteen years of age be prohibited? Thousands of such questions must be settled, and the acts which decide them, usually called *laws*, are acts of *legislation*. So we say that one branch of government is the *legislative*.

2. *Another branch of government carries out the decisions of the legislative department.* This is the *executive* department. Executive officers do the things decided upon; or

they aim to prevent people from doing the things that have been prohibited.

3. *Government decides when the laws have been carried out or broken.* This is the work of the *judicial* branch. It may order the execution of the law that has been neglected or decide the punishment when one has been broken. It is frequently the case that a single officer or body has the work of more than one of the branches of government at the same time.

We have spoken of government as being carried on by officers; but every citizen can have a share in this work. Who are citizens? We shall learn that "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." This definition includes boys and girls as well as men and women. Adults take part in the government when they vote and hold office. But all persons, whether old or young, share in the work of government when they obey or break the laws and when they help or hinder the officers in the performance of their duties.

Political government in this country is either local, State, or national. Government in school districts, towns, villages, cities, and counties is local. We shall study this kind first, omitting, however, the school district until we reach the chapter on Education.

## SUGGESTIVE QUESTIONS.

**1. Can you discover who constitute the legislative, executive, and judiciary in the home? In a base-ball nine? In a literary society? In the school-room?**

2. Give instances in which you helped to make or enforce laws in any organization.
3. Have you ever helped to carry out a law of the political government?
4. If a person destroys school property he is helping to make bad government. Give other instances where citizens who are not officers help to make the government either good or bad.
5. How long has government existed in your community? Whom were some of the first officers? (Frequently the clerk has the book containing the first records.)

## CHAPTER II.

### THE TOWN GOVERNMENT.

**"Town" in Two Senses.** — The word "town" has two meanings. In popular language it means a collection of houses. In a legal sense towns are divisions of counties, set off by act of the county board or the State Legislature. There is no law regulating the size of towns; many of them correspond in boundaries exactly to Congressional townships, and so are six miles square. (See "National Government," pp. 170–173.) Within the region organized as a town there may or may not be a collection of houses, or "town," in the popular sense.

**The Town Meeting.** — The most interesting part of town government in this State is the town meeting, in which all the voters may assemble. This meeting is held on the first Tuesday of April each year. Between certain hours on that day the voters of the town may vote by ballot for town officers. At a stated time in the afternoon they assemble for the "meeting." The chairman of the town presides and the town clerk keeps the record, called the "minutes." A regular order of business is followed; motions are made and discussions upon matters of local interest may follow.

The State law provides that the town meeting may pass

"such orders and by-laws as shall be conducive to the peace, welfare, and good order of the town." Copies of these town laws are posted in places where they may be readily seen. The town meeting has the important power of taxation. It may vote to raise money for paying the expenses of the town; that is, for such purposes as the building and repair of roads and bridges, the support of the poor, and the maintenance of the town hall.

When a town wishes to make some large expenditure, instead of raising the entire amount at one time by taxation, it borrows the money by the sale of *bonds*. Bonds are like promissory notes, stating the amount of the debt, the time it is to run, and the rate of interest. Persons who buy these bonds are thereby loaning their money to the town.

At the town meeting certain officers must make reports. All the officers must be qualified electors (voters) in the town, and all, except justices of the peace, are elected for a term of one year.

**The Town Board.** — The *town board* consists of three supervisors, one of them being elected as chairman of the town. The board has "general supervision of town affairs" and controls the expenditure of the taxes. A person to whom money is due in payment for supplies or services furnished to the town presents to the board a bill, or account, which it examines and allows or disallows. An *order* is then drawn on the town treasurer for the amount allowed. This is taken, by the one who presented the claim, to the town treasurer, who pays the cash and keeps the

order as a receipt or "voucher." The report of the town board must contain a statement of these accounts also a general statement of the finances of the town, with estimates of the amount of taxes that will be necessary to meet the expenses of the next year. Another duty of the board is to *audit* the accounts of all officers who handle the money of the town. To audit an officer's accounts is to examine them in order to see that his books show the amount and sources of all money received by him, and that he has receipts or vouchers for all money that he expended. In this way dishonesty or inaccuracy in an officer's accounts will be detected.

**Other Town Officers.** — The *clerk* acts as secretary at town meetings and at meetings of the board. He posts notices and copies of the by-laws. He also performs various duties in connection with elections, school money, and highways.

The *treasurer* collects taxes and receives all other moneys that are paid into the town treasury. He pays out money upon town orders, as described above.

There are four *justices of the peace*, two being elected each year for a term of two years. Justices hold court for the trial of certain cases. (See pp. 80, 86.)

There may be as many *constables*, not exceeding three, as may be ordered by the town meeting. They carry out the orders of other town officers and of courts. They serve writs and processes; that is, legal papers connected with suits and trials. They see that the law is enforced and arrest violators of the law.

The duties of the *assessors* are defined under the topic Taxation. (See chapter XV.)

The *superintendent of highways* is appointed by the town board. The town may be divided into road districts, with a superintendent for each.

**The Oath of Office.** — Like all officers of any government, the town officers must take an *oath of office* before entering upon their duties. Each swears "to support the Constitution of the United States and the Constitution of this State; and faithfully to discharge the duties of his office to the best of his ability."

**Officers' Bonds.** — Some of the town officers are required to give *bonds*. By his bond an officer and at least two other persons, known as *sureties*, bind themselves to pay to the town any money that the officer may be required by law to pay. For instance, a treasurer must return to the town all money that he has received and not legally expended. The purpose of this bond is to secure the proper performance of the officer's duty. In all governments certain officers are required to give such bonds.

## SUGGESTIVE QUESTIONS.

1. The school should be provided with a county wall map showing the boundaries of the towns, villages, and cities. Draw a map of the county and of the local unit in which you live.
2. If you live in a town, take the next opportunity to attend a town meeting. What were the subjects discussed at the last meeting? What orders or by-laws were passed?
3. Make a list of your town officers. How is each paid?

4. In your town do all the voters attend town meeting? Should all attend?
5. How much money was expended by the town last year, and for what purposes?
6. State two meanings of the term "town order," also of the term "bond."

## CHAPTER III.

### VILLAGE GOVERNMENT.

**How Villages are Organized.** — It often happens that a large number of people come together to live at a certain place in a town. This may be at a cross-roads, a mill site on a river, or at a good point for business on a railroad. They will then wish to provide themselves with certain conveniences, such as macadamized streets, sidewalks, and street lights. If the people of the entire town do not wish to pay the expense of these conveniences, it may be necessary for the people at this place to form a separate government to secure them. So the law provides that any part of any town or towns not less than one-half of a square mile in area, and containing at least two hundred inhabitants, may become an *incorporated village*. (If the village is to lie in two or more adjacent counties its area must be at least one square mile and its population at least four hundred to the square mile.)

The process of incorporating a village includes many steps: there must be a survey of the region that proposes to become a village; a map must be made and a census taken. A petition is presented to the circuit court, followed by a hearing in that court for discussion of the proposed change. Finally, an election is held at which a majority of the voters must vote for incorporating the new village.

There are two important differences between town and village government: 1. The village government exercises more powers than those that are usually exercised under town government (unless the town contains an unincorporated village). More government is necessary where people are settled closely together, not only because they wish to supply themselves with more public conveniences, but also because here it is more easy for one person to interfere with the rights of another. So the government must pass laws upon a larger number of subjects. 2. There is no general meeting of the voters of the village; the people, then, have less direct control over local affairs than is possible in the town. Consequently, the governing body, the *village board*, is larger than the town board; it consists of a president and six trustees.

**Powers of the Village Board.** — Village elections occur annually on the first Tuesday of April. All of the officers serve for one year, except the trustees and justices, whose term is two years. Among the many subjects over which the village board has authority are the following: streets, sidewalks, shade trees, licenses, fire protection, water supply, public health, lighting, suppressing crime and disorder, and taxation.

**Village Officers.** — The president of the village presides at meetings of the board. He has a vote as a trustee and must sign ordinances passed by the board. He is also an executive officer, whose duty it is "to maintain peace and good order" and "to see that the ordinances are faithfully

obeyed." The clerk, treasurer, assessor, constable, and justice of the peace have duties of the same nature as those given to the corresponding town officers.

An important village officer is the *supervisor*; his sole duty is to represent the village on the county board (see p. 22). All of the officers mentioned are elected, and there may be elected also a police justice with powers like those of a justice of the peace. Besides, the village board may appoint a village attorney, a pound-master, a marshal, one or more fire wardens, and one or more street commissioners.

## SUGGESTIVE QUESTIONS.

1. If you live in a village, draw a map showing its boundaries. When was it incorporated? How did it happen that a village grew at that place?
2. Make a list of the officers in your own or a neighboring village.
3. Ask the village clerk to show you some of the village ordinances. Are they all obeyed?
4. Learn from the treasurer what amount of money the village expended last year, and for what purposes.

## CHAPTER IV.

### THE CITY.

**The Organization of a City.** — We have seen that the people living in one portion of a town may have their locality set off as a village. If the village should grow larger, it may wish to change the government to that of a city, since under city government all the public affairs may be cared for more conveniently than under village government. Any region, whether it was formerly a village or not, containing a population of 1,500 or more, may become incorporated as a city. The steps in this process are similar to those for incorporating a village.

**City Charters.** — When a city becomes incorporated it receives a *charter* stating the form and powers of its government. In former years cities were granted charters by special acts of the Legislature. This is no longer done. The "general law" of the State upon the subject of cities contains the provisions under which they are governed, although some still retain their old special charters. Some persons think that a city should be able to change the provisions of the general law as it shall apply to that city, or that the people of a city should be allowed to elect a convention at which a new charter can be framed. The following paragraphs relate to cities under the general law.

**Classes of Cities.** — Because cities of different sizes need somewhat different provisions for their government, the cities of Wisconsin are divided into four classes:

First class, population 150,000 and over.
Second class, population 40,000 and under 150,000.
Third class, population 10,000 and under 40,000.
Fourth class, population less than 10,000.

By the census of 1910, Milwaukee is the only city of the first class. The governments provided for cities of the three lower classes have few points of difference. A city is divided into *wards* for purposes that we shall see later.

**Powers of the City Council.** — The law-making body in the city is the *council*, composed of either one or two aldermen from each ward. It enacts ordinances (*i. e.*, laws) upon a great many subjects. For the convenience of the citizens the streets must be properly graded, paved, and cleaned; sidewalks and sewers must be constructed; waterworks and a lighting plant must be provided, either by the city or by persons to whom the council grants a *franchise*, with permission to construct and operate such plants. In many cities a street-car system is necessary. The council, besides providing for a fire department, prescribes in some ways how people shall construct their buildings; and it sets "fire limits" within which certain fire-proof materials must be used.

Because the city is thickly populated, public health must be carefully guarded. There are regulations concerning the disposal of garbage and rubbish, the inspection of food, and the control of contagious diseases. Among the city's population there are certain to be some who are paupers, others who have no settled occupation or means of support

(vagrants), and still others who come to the city because it is easier there than elsewhere to commit crime. The council must enact a multitude of ordinances covering such matters. Whenever, in any kind of business, disorder or indecency may exist, or whenever those carrying it on may impose upon people, the council places that business under strict control. It does this frequently by granting *licenses*. Saloons, shows, draymen, hackmen, and peddlers are licensed; and the council may cancel these licenses if the city's ordinances are broken.

The city government exists, not only to protect the people from dangerous or disagreeable conditions; not only to help all the people get certain conveniences; but also as a means by which the people furnish themselves with better means for the enjoyment of life and with means for becoming better citizens. Accordingly, we have city schools, libraries, and parks. The council may also provide for public playgrounds, concerts, and lectures.

**Other Ways of Enacting Ordinances.** — The *mayor* of the city, besides being chief executive, presides over meetings of the council in all cities except Milwaukee. If he approves of an ordinance passed by the council he signs it; if not, he *vetoes* it, and then it will became a law only if it passes the council again by a vote of three-fourths of its members. But the council is not the final authority in making laws for the city. Sometimes councils, though elected by the people, pass ordinances that are harmful to the public interests; or they may fail to enact a law that is desired by the voters.

**The Referendum.** — City ordinances do not go into effect for twenty days after their passage, except such as have been declared by a two-thirds vote of the council to be *emergency ordinances* — that is, necessary for an immediate purpose — and those containing appropriations for the support of the government. If within the twenty days, a petition is signed by twenty per cent of the voters asking to have an ordinance suspended, it will not go into force until it has been submitted to a vote of the people at an election and approved by a majority.

**The Initiative.** — If a petition is signed by a certain number of voters, varying from fifteen to twenty-five per cent, asking to have a certain ordinance passed by the council, then the council shall either (1) pass the proposed ordinance or (2) submit it to popular vote. If a majority of the voters approve of it, the ordinance becomes a law, and the council cannot repeal it within two years.

**City Departments.** — The enforcement of the city's laws is a very difficult matter. We have seen that the chief executive is the mayor. Many officers and boards look to him for direction in the enforcement of the laws, although it is their duty to carry out their provisions regardless of the mayor's wishes. The chiefs of the police and fire departments are appointed by the mayor, or by the police and fire commission — a body that is appointed by the mayor in some cities. In the larger cities, policemen and firemen get their positions only after passing examinations, and they cannot be removed for political

reasons. This is for the purpose of making them independent of political influences — a very important matter, especially in the case of the police.

Another department is that of *public works*. The board of public works may be either city officers or other persons appointed by the mayor. It has charge of city buildings, and under its supervision the streets, sidewalks, bridges, and sewers are constructed. If the city owns a water or lighting plant this board has charge of that also.

The board of health appoints a health officer, whose work it is to carry out not only city ordinances, but also State laws upon this important subject.

The schools of a city are managed by a board of education. The library is under a library board. Parks and playgrounds may be controlled either by the board of public works or by a park commission.

**Other City Officers.** — In the city, as in the town and village, we find the clerk and treasurer. The city attorney draws up ordinances, contracts, and other documents, and gives legal advice to city officials.

The *comptroller*, who has duties in connection with financial matters, is an important officer in large cities. He makes estimates of the city expenses, keeps the council informed about the condition of the several city funds, and examines and countersigns all orders for the payment of money.

All cities have justices of the peace, and some have also police justices, who try cases arising under the ordinances of the city. In some cities there is a juvenile court.

In each ward of a city (except Milwaukee) there is elected a *supervisor,* who is a member of the county board (see p. 22).

**The Recall.** — We have seen how the referendum enables the voters to pass judgment upon ordinances that the council has passed; how the initiative enables them to enact an ordinance that the council refuses to pass. There is still another way in which the people may control directly the acts of the officers whom they have elected. Six months or more after an officer has been elected he may be *recalled;* that is, deprived of his position in the following manner: If a petition is signed by one-third of the voters, a special election will be held at which this officer and other persons may be candidates for the position. The officer may be re-elected, or another person may be chosen to take his place.

**The Commission Form.** — The plan of city government outlined above is found in the larger number of Wisconsin cities. Another plan has been adopted by some, known as the commission form of city government. It has been found that a large number of officers, each having considerable authority, often do not work in harmony. Frequently the mayor and council do not agree; sometimes the council will not confirm the mayor's appointments. Again, some city officers are elected and so are not subordinate to the mayor. Hence it happens that if good ordinances are enacted they may not be faithfully carried out. Again, with so many officers, each receiving small pay, it is difficult to get excellent service. So city business is, on

the whole, more poorly conducted than private business. And too often there is waste, extravagance, and even the stealing of public money.

In order to better these conditions, some cities have given all the powers of mayor and council into the hands of a small council (sometimes called a commission) of three members, one of them being mayor. These officers are paid good salaries, and in the larger cities they devote their entire time to city business. This council appoints the city officers who are elected under the other plan. It may create city departments, the head of which in each case will be one of the three councilmen. (But this does not apply to separate boards, such as the board of education or the police and fire commission.)

Under this plan it is thought cities can secure better officers, more prompt enforcement of the law, and more business-like methods of administration. Because much power is placed in the hands of a few men, the people will know who is responsible if the government does not run well. In order that the council may not abuse its great power, the law provides for the use of those methods by which the people may control the passing of ordinances directly — the referendum and the initiative. Then, too, any one of these officers may be recalled in a method similar to that stated above (p. 19).

**The Government and the People.** — It is not difficult to see that whatever plan of government a city has, its workings depend chiefly upon the people. They may elect good or poor officers; they may be careful or careless in watching the acts of these officers; they may encourage or neglect the enforcement of the laws. Now, the great

majority of citizens certainly desire good government. If they do not have it, the fault must be theirs, for the law provides a great many ways in which it can be brought about.

## SUGGESTIVE QUESTIONS.

1. Make a list of the officers of your own (or a neighboring) city. Are there other officers than those mentioned in this chapter? Which plan of government has the city?
2. Make a map of the city showing ward boundaries. When was the city incorporated? Was this under a special charter or under the general law?
3. Get from the treasurer a statement of the city's finances for the last year. Explain the items of receipts and expenses. Is there a debt?
4. Mention ordinances that show the different powers of the council.
5. What public works does the city maintain? Do you think it should undertake other works?
6. What improvements in the appearance and in the good order of the city do you think are desirable?
7. Do the citizens take an interest in the government? Do they have pride in the city?
8. Are there societies in your city that are helping to make it better? What are they doing?

## CHAPTER V.

### THE COUNTY.

**How Created.** — Wisconsin has at present seventy-one counties. These have been created at various times by the State Legislature. The county seat is selected when the county is formed, or by the county board at its first regular meeting. At the county seat there must be maintained a court-house, jail, and fire-proof offices.

**The County Board.** — The governing body of the county is the *board*. It is composed of the chairman of each town and a supervisor elected for this purpose in each incorporated village and in each ward of the cities.[1] A village or a ward may be divided, each part electing a supervisor.

The regular meetings of the county board are held at the county seat on the Tuesday after the second Monday of November. It elects one of its members as *chairman*. He presides at meetings of the board and holds office for one year. The chairman's signature is required upon all county orders and upon all ordinances passed by the board.

**Powers of the Board.** — Some of the important powers that have been given by the Legislature to the county board may be stated under the following heads: (1) To

[1] In Milwaukee County the board is composed of supervisors elected from the assembly districts of the county.

care for and maintain all county property. (2) To examine, audit, and settle all county expenses. (3) To levy and apportion taxes (see p. 109). (4) To fix the pay of county officers. (5) To issue bonds. (6) To organize new towns and to change town boundaries. (7) To change the name of any town or village or of any person residing in the county. (8) To lay out a system of State roads and to vote money to aid in their construction (see p. 101). To care for the poor and the insane.[1]

County boards are usually too large to do business effectively, so the chairman appoints committees, each having charge of a particular kind of business. Then the entire board generally accepts the judgment of a committee upon matters that it decides. However, many times the members representing towns, villages, and wards that are rivals do not work together harmoniously (see question 8, p. 26).

**County Officers.** — The officers next mentioned are elected at the "general election" — the Tuesday after the first Monday of November, in even-numbered years. So the term of each is two years.

The *county clerk* is secretary of the county board, keeping a record of its proceedings and making out orders for the payment of money as authorized by the board. He issues hunters' and marriage licenses. He also performs many duties in connection with elections, taxes, and school money.

The *county treasurer* receives all money due the county and pays out money on orders of the county board signed by the clerk and countersigned by the chairman; he keeps

[1] Several of the powers mentioned above will be discussed in other chapters.

account of receipts and expenditures, and has important duties in connection with taxes.

The *sheriff* appoints an under-sheriff, or general deputy, and a deputy in each village and city containing over one thousand inhabitants. The sheriff's most important duties may be summarized as follows:

1. He takes charge of the jail and the prisoners therein.
2. He attends the circuit court during its session.
3. He serves writs and executes orders when required by the courts and other authorities.

The coroner acts as sheriff (1) in case of a vacancy in the offices of both sheriff and under-sheriff; (2) when the sheriff is prevented by law from performing the duties of his office. Another duty of the coroner is to hold inquests of the dead; an inquest is held when a person is supposed to have come to his death "by violence or casualty."

The *clerk of the circuit court* keeps the records of that court (see p. 76), and has other duties in connection with trials and juries.

The *district attorney* is a very important officer. He prosecutes or defends in the circuit court all suits in which the State or county is interested as a party. He is, of course, a lawyer. As prosecuting attorney it is his duty to watch for violations of the law, to search out the offenders, to order their arrest, to collect and present evidence sufficient to convict guilty persons on trial. In many cases the evidence of crime and the names of supposed criminals are furnished to the district attorney by persons who have suffered wrongs. He must then begin the prosecution of the case, if the evidence is sufficient to warrant action.

But many times there is no one to complain of a wrong, and then the district attorney may either shut his eyes to the existence of crime or show his efficiency by bringing criminals to justice. It is also the duty of the district attorney to give legal advice to the county board and to county officers.

The law requires that all deeds and mortgages, as well as some other legal documents, shall be recorded in the office of the *register of deeds*. It also requires that births, deaths, and marriages shall be reported to this officer and recorded by him.

The *county surveyor* is the officer to whom appeal is made by individuals, or by courts, when the location of boundary lines is uncertain. In such cases he is required to make surveys, to fix the lines, and to keep record of the survey.

**Other Officers.** — The *county superintendent of schools* is elected at the spring election, the first Tuesday of April, for a term of two years. His duties are spoken of in chapter XVII. The *county judge* is elected at the same time for a four years' term. For his duties, see chapter XII, p. 75. A county *highway commissioner* is elected by the county board (see p. 101), as are also the superintendents of the poor-house and insane asylum, in counties where there are such institutions.

### SUGGESTIVE QUESTIONS.

1. **Place in parallel columns the officers of town, village, city, and county, placing on the same lines the titles of officers that have similar duties.**
2. **What are the names of the officers in your county? How is each paid?**

3. Make a list of the property owned by the county. Who has care of it?
4. Printed copies of the proceedings of your county board may be obtained from the county clerk. In them may be found many illustrations of how the board exercises its powers. Much more may be learned of the manner in which business is actually conducted by conversations with its members. To what extent is the work divided among committees?
5. Find in the report of proceedings the statement of receipts and expenditures of county money. Explain the items.
6. For how many days does a session of the county board continue? How are members of the board paid?
7. If your county has a bonded debt, find reasons for it and facts about it.
8. In most States the county board is composed of a few men known as Commissioners, elected from the county *at large;* that is, without reference to their place of residence. What advantages would be gained by the adoption of this system in Wisconsin?

## CHAPTER VI.

### HOW WISCONSIN BECAME A STATE.

**Our History.** — The State of Wisconsin was admitted into the Union on the twenty-ninth of May, 1848. The previous history of the region then made a State is varied and interesting; but we shall review only such portions of this history as may help us to understand the formation of the State and local governments.

**A Part of the Northwest Territory.** — It is well known that Wisconsin was once a part of the Northwest Territory, and that this had been ceded by several of the original States to the general government. The map facing page 1 shows the boundaries of the five States into which the Northwest Territory was to be divided according to the Ordinance of 1787. Congress saw fit to alter these boundaries, obtaining the " consent " of the States as they were admitted. The boundaries of the fifth State (Wisconsin) were so changed that its territory was limited in three directions. When Illinois was admitted (1818) the northern boundary of that State was moved northward to coincide with parallel 42° 30′. When Michigan became a State (1836) it was given the northern peninsula. Finally, upon the admission of Wisconsin, the northwestern region, beyond the St. Croix River and Lake Superior's western

end, was cut off to become, in later years, a part of the new State of Minnesota.

**From Territory to State.** — Previous to 1836 Michigan territory included the present Wisconsin; but in that year Michigan became a State and Wisconsin was made a separate Territory. The people of the new Territory made efforts at various times to acquire statehood, and in 1846 they decided by a popular vote that the Territory should seek admission to the Union. In the meantime Congress had passed an act enabling them to proceed with the formation of a Constitution. Delegates were accordingly elected to a convention which met at Madison in October, 1846. This convention framed a Constitution which was in some particulars unsatisfactory to the people, so that the vote taken upon its adoption was unfavorable, and this Constitution was rejected. A second convention was elected and met a year later (December, 1847, to February, 1848). The Constitution then framed was adopted by the people and accepted by Congress, and it is still in force.

Numerous amendments have been added to it, but in essentials this Constitution has not been altered. To some extent the framers of the Constitution followed the State government of New York as a model; they also profited by the experience of neighboring Western States in avoiding certain unwise measures. The provisions of our Constitution thus reflect the wisdom and experience of the men who planted the principles of republic government, derived from England, upon American soil, and adapted them to the new conditions of our Western life.

**What Is the Constitution?** — The Constitution of a State is the fundamental law in accordance with which its government is conducted. What, it may be asked, are the contents of this document? There is at the beginning the Preamble, stating the purposes of our government.

**The Preamble.** — We, the people of Wisconsin, grateful to Almighty God for our freedom; in order to secure its blessings, form a more perfect government, insure domestic tranquillity, and promote the general welfare; do establish this Constitution.

In addition to the Preamble, it may be said that the Constitution contains those provisions concerning our State government which are of such great importance that changes should be made in them only after the most serious consideration and the final submission of proposed changes to a vote of the people. Such changes in the Constitution are called Amendments.

## SUGGESTIVE QUESTIONS AND REFERENCES.

1. An account of the cession of Western lands and the Ordinance of 1787 governing the Northwest Territory is given on p. 165 (National Government). See also James and Sanford, Government in State and Nation, 274. American History, pp. 184-190.
2. What States claimed the territory that is now Wisconsin? The land on which your school stands?
3. The exact geographical boundaries of Wisconsin are stated in Article II of the Constitution. See Blue Book.
4. For an outline of Wisconsin History and an account of its admission, see the Blue Book.
5. The reasons why Wisconsin's boundaries were changed are given in Wisconsin Historical Collections, Vol. XI, p. 451. Also in Thwaites, The Story of Wisconsin, 193–197.

## CHAPTER VII.

### IMPORTANT PRINCIPLES OF GOVERNMENT.

**The Rights of the People.** — The first article of our Constitution is called a "Declaration of Rights." It states long-established rights, very dear to all Americans and to the English people from whom we inherit them, as the fundamental principles upon which our government rests.

Article I, Section 1. All men are born equally free and independent, and have certain inherent rights; among these are life, liberty, and the pursuit of happiness. To secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.

The phrases used here are quite similar to the opening sentences of the Declaration of Independence. In 1776 the great question was, *how to keep certain rights* which the government of England was trying to take away. So both the State and the United States governments were established to "secure" (that is, to make secure) these rights. Since that time we have learned to think more of another purpose of government quite as important: that is, to enable us *to do our duty* toward those persons who need assistance — as the poor and the unfortunate. The government may take from a person any of the "inherent rights" mentioned in this clause, whenever his acts interfere with the well-being of the community.

Section 2. There shall be neither slavery nor involuntary servitude in this State, otherwise than for the punishment of crime, whereof the party shall have been duly convicted.

This clause follows quite closely the language of the Ordinance of 1787, by which slavery was excluded from the Northwest Territory. The same words are also used in the Fifteenth Amendment to the Constitution of the United States, adopted in 1870.

Section 3. Every person may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right, and no laws shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libel, the truth may be given in evidence; and if it shall appear to the jury that the matter charged as libelous be true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the facts.

**Freedom of Speech and of the Press.** — This right is always found in a free country. It is a great safeguard against wrong and injustice; for persons who are inclined to do wrong will hesitate if their acts are to be made public. Because we have this right officers of the government are always open to criticism, and this fact makes them more careful in their conduct of public business.

Like all other rights, this one may be abused. Libel consists in speaking or printing *maliciously* that which injures a person in the eyes of the public. But if that which is said or printed is true, and if its author acted with good motives, then he is not guilty of libel if some one else is injured by it.

**The Right of Assembly and Petition.** — Next to the free expression of ideas by speech and press, the best securities of the people against oppressive government are the right to assemble for discussion and the right to present grievances by means of petition.

Section 4. The right of the people peaceably to assemble to consult for the common good and to petition the government or any department thereof shall never be abridged.

Officials who are not disposed to follow the wishes of the public may be impressed with a sense of their duty by the action of a large public assembly or by a large number of petitions. Sometimes the government is supported and encouraged by similar measures.

**Jury Trial.** — Section 5. The right of trial by jury shall remain inviolate, and shall extend to all cases at law, without regard to the amount in controversy; but a jury trial may be waived by the parties in all cases in the manner prescribed by law.

When a jury trial is waived the case is heard by a judge. This is sometimes done when the questions involved in a case are very difficult.

The process of jury trial is a fundamental safeguard of our liberties. In connection with trials there may be many abuses unless the steps in the process are carefully laid down by law. Some of these details are stated in the Constitution and will be discussed in the chapter upon the judicial department of our State government (chapter XII).

Very plainly, the following statement is fundamental, and laws have been enacted for the security of all these rights

Section 9. Every person is entitled to a certain remedy in the laws, for all injuries or wrongs he may receive in his person, property, or character; he ought to obtain justice freely, and without being obliged to purchase it, completely and without denial, promptly and without delay, conformably to the laws.

**Treason.** — Section 10. Treason against the State shall only consist in levying war against the same, or in adhering to its enemies, giving them aid or comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The definition of treason made in Section 10 prevents the conviction of persons for this offence on any grounds but those of actually assembling men with the purpose of opposing the government by force.

**Abuses Prohibited.** — Certain bad practices of governments in former times cannot exist in this country.

Section 12. No bill of attainder, ex post facto law, nor any law impairing the obligation of contracts shall ever be passed; and no conviction shall work corruption of blood or forfeiture of estate.

A bill of attainder is a law passed by a legislative body condemning a person without trial in a court. The injustice of such a procedure lies in the fact that members of a legislature might condemn a person for political reasons.

An ex post facto law is one which makes a criminal act punishable in a more severe manner than was the case when the act was committed.

In former times when such laws were possible, the property of a person convicted of an offence was sometimes taken by the government or by the king. In some cases

it was in order to get his property that he was brought to punishment. The term " corruption of blood " applies to punishments under which the offender could neither inherit property from his ancestors, nor retain that which he already possessed, nor transmit property to his heirs.

When two persons make a contract, each assumes certain obligations which, if carried out, will benefit the other party to the contract. Now, if laws lessening or impairing the obligation of one party could be passed, then the other would suffer; and, in general, property would be rendered insecure and business uncertain.

**Eminent Domain.** — The people of the State have the right of *eminent domain* over the property of an individual. That is, he may not continue to hold it if the interests of the public demand that he should part with it. Taking private property for public use is called condemning the property. The State authorizes towns, villages, cities, school districts, counties, railroad and some other corporations that perform public services, and certain State boards, to condemn property. This is done under the single condition, always, that —

Section 13. The property of no person shall be taken for public use without just compensation therefor.

To determine the amount to be paid when that is not agreed upon by the owner and the authorities, various methods are employed. Generally a jury is summoned, under supervision of a court, to *appraise* or fix the value of the property condemned.

**Religious Freedom.** — So much of the history of this country finds its explanation in the words "Freedom to worship God" that it is unnecessary to explain the reasons for including the next sections in the Declaration of Rights.

Section 18. The right of every man to worship Almighty God according to the dictates of his own conscience shall never be infringed; nor shall any man be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent; nor shall any control of or interference with the rights of conscience be permitted, or any preference be given by law to any religious establishments or mode of worship; nor shall any money be drawn from the treasury for the benefit of religious societies, or religious or theological seminaries.

Section 19. No religious test shall ever be required as a qualification for any office of public trust, under the State, and no person shall be rendered incompetent to give evidence in any court of law or equity in consequence of his opinions on the subject of religion.

**Civil and Military Government.** — The study of history shows the evils that may be brought upon a country when the military is more powerful than the civil government.

Section 20. The military shall be in strict subordination to the civil power.

When military officers, backed by an army, govern a country, their rule is arbitrary, and the people have no part in it. Such government may be admirable for savage and unruly peoples; but in this country it should come about only in times of public disorder, when lives and property are unsafe. The civil authorities determine when this shall be; hence the military is in strict subordination to the civil power.

More important than the framework of the government are the virtues of the people.

Section 22. The blessing of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

## CHAPTER VIII.

### THE LEGISLATURE.

We learned in Chapter I that one of the important branches of any government is the legislative. Our Constitution says that in Wisconsin —

Article IV, Section 1. The legislative power shall be vested in a Senate and Assembly.

The division into two houses follows the example of other States and the United States Government. It is a check upon hasty or unwise legislation.

This Constitution does not contain a list of the powers of the Legislature. No such list could be made, for the Legislature may pass laws upon all subjects except (1) certain subjects particularly stated in the United States Constitution; (2) others mentioned in the State Constitutions; (3) still others over which Congress has exclusive power.

**Sessions.** — Until 1881 the sessions of the Legislature were annual. The sessions then became biennial upon the adoption of an amendment to the Constitution.

Section 11. The Legislature shall meet at the seat of government, at such times as shall be provided by law, once in two years, and no oftener, unless convened by the Governor in special session; and when so convened, no business shall be transacted except as shall be necessary to accomplish the special purposes for which it was convened.

Section 10 (part). Neither house shall, without the consent of the other, adjourn for more than three days.

A regular session of the Legislature begins at 12 o'clock, noon, on the second Wednesday of January of each odd-numbered year. It lasts as long as is necessary to transact the business brought before it; this is generally until mid-summer.

It is customary for the Legislature to make weekly adjournments, over Saturday and Sunday, and sometimes longer, in order that members may attend to private business at their homes. These weekly adjournments are longer during the early than during the closing weeks of the sessions.

**The Capitol.** — The Capitol building at Madison, where the Legislature meets, stands in the centre of a beautiful park located on slightly elevated grounds overlooking Lakes Monona and Mendota. Since the burning of the Capitol in 1904, the State has constructed a new building, one of the most imposing of State capitols.

**Numbers.** — Members of the Legislature are elected at the general election, that is, the Tuesday after the first Monday of November in each even-numbered year. There are at present 100 Assemblymen and 33 Senators. These numbers are within the limits fixed by the Constitution:

Section 2. The number of the members of the Assembly shall never be less than fifty-four, nor more than one hundred. The Senate shall consist of a number not more than one-third nor less than one-fourth of the number of the members of the Assembly.

**Apportionment.** — Each Senator and Assemblyman is elected from a *district*. The Blue Book contains maps showing the Assembly and Senatorial districts into which the State is divided for this purpose. The process of dividing the State into these districts is called *apportionment*. The apportionment is made on the basis of population, as provided for in the following Sections 3, 4, and 5 of Article IV.

In accordance with these sections, the following rules may be stated by which the Legislature is guided in making apportionments: (1) There shall be a new apportionment every five years. (2) The districts shall be laid out "according to the number of inhabitants." The ratio of population to one Assemblyman is found by dividing the population of the State, as determined by the last census, by 100; the ratio for the Senatorial district is found by dividing the population by 33. The population of the districts should not vary widely from these ratios. (3) Assembly districts shall consist of contiguous territory (that is, composed of one piece, rather than of scattered parts), in as compact form as practicable. An Assembly district may be either (1) a county, (2) two or more entire counties joined, or (3) a part of a county. In dividing a county into two or more districts, town, precinct, and ward lines shall be followed. In large cities, wards are divided into voting districts, called precincts. (4) Senate districts shall consist of convenient contiguous territory, and no Assembly district shall be divided in making a Senate district.

**Contested Elections.** — The right of a person to a seat in the Legislature may be disputed on the ground that he

is not qualified, or because of some irregularity in the election. When a contested case arises, testimony is furnished to the house by the rival claimants; the house considers the testimony and determines who is entitled to the seat. This is the meaning of the first statement of the following section:

Section 7. Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner, and under such penalties, as each house may provide.

**Quorum.** — A quorum, as stated in the above section, is a sufficient number to do business. This is a majority (more than one-half) of the members of either house. The "smaller number" may compel the attendance of absent members by sending the sergeant-at-arms to arrest them.

**Rules for Conduct of Business.—**

Section 8. Each house may determine the rules of its own proceedings, punish for contempt and disorderly behavior, and, with the concurrence of two-thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause.

These rules give the duties of officers, method of passing bills, and many similar details.

**Officers.** — Every body of persons authorized to do business must have its officers; in the Legislature, these are provided for by the following sections:

Section 9. Each house shall choose its own officers, and the Senate shall choose a temporary president, when the Lieutenant-Governor shall not attend as president, or shall act as Governor.

Article XIII, Section 6. The elective officers of the Legislature, other than the presiding officers, shall be a chief clerk and a sergeant-at-arms, to be elected by each house.

The presiding officer of the Assembly is the Speaker. His position is one of responsibility, for he appoints the committees of the Assembly, and these, as we shall see, control legislation to a considerable extent. Besides thus indirectly influencing legislation, the Speaker can exert much influence through his control of the proceedings. In the Senate the Lieutenant-Governor is the presiding officer (Article V, Section 8). It is customary for the Senate to elect, at the beginning of a session, a president *pro tempore*, who acts as presiding officer in the absence of the Lieutenant-Governor. Each house has, besides its presiding officer, a large number of other officers, some elected and some appointed.

**Publicity.** — Publicity is one of the greatest safeguards against bad legislation. In three ways publicity must attend the proceedings of the Legislature:

Section 10 (part). Each house shall keep a journal of its proceedings, and publish the same, except such parts as require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy.

Section 20. The yeas and nays of the members of either house, on any question, shall, at the request of one-sixth of those present, be entered on the journal.

**Methods of Voting.** — The most common method of voting in the Legislature is by acclamation: all who favor a motion or the passage of a bill say "aye," those opposed

say "no." If there is difficulty in determining which side has a majority, or if a division is demanded, a "rising vote" is taken, so that the members voting on each side may be counted. When the "yeas and nays" are ordered, the clerk calls the roll, each member present votes in response to his name, and his vote thus becomes a matter of record. This publicity has a restraining influence on legislators who might vote for bills that are opposed to the public welfare.

**Pay of Members.** — Section 21. Each member of the Legislature shall receive for his services for and during a regular session the sum of five hundred dollars, and ten cents for every mile he shall travel in going to and returning from the place of meeting of the Legislature on the most usual route. In case of an extra session of the Legislature, no additional compensation shall be allowed to any member thereof, either directly or indirectly, except for mileage, to be computed at the same rate as for a regular session.

In 1910 the voters rejected an amendment to the Constitution which proposed to raise the pay to $1,000 for each regular session.

**Railway Passes.** — Members of the Legislature do not receive mileage when they take trips to their homes during the session. It was customary for the railroads to furnish members passes for this purpose until the enactment of the anti-pass law in 1899. The use of passes extended much farther than this. It was understood that any State official could have annual passes on the railroads if he wished. Moreover, during the sessions of the Legislature it became customary for thousands of people to obtain

passes for trips to Madison and elsewhere in the State; these passes were freely supplied by agents of the railroad companies at Madison, upon application by any member of the Legislature. The practice of granting passes was also frequently extended to city and other local officials, while telegraph and express companies had a similar practice in the granting of a franking privilege to officials.

In 1902 there was adopted an amendment to the Constitution (Article XIII, Section 11) which prohibits certain persons from receiving free transportation for themselves or their property, or free messages and communications, when other persons are charged for the same service. Those who may not receive this free service are: (1) members of, or employees of, political party committees; (2) candidates for office; (3) public officers; (4) any other person at the request of or for the advantage of any of those mentioned under (1), (2), and (3). The reason for this prohibition is that formerly candidates and officers were influenced to favor railroad and other companies in the passing of laws and in other public business.

## SUGGESTIVE QUESTIONS.

1. When was the last census taken by the United States? By the State? When was the last apportionment made? Why is reapportionment required so frequently?
2. How large is the Assembly district in which you live? What territory does your Senate district include? (See maps in the Blue Book.) Who is your Assemblyman? Your Senator? When was each elected? When will their successors be elected?
3. According to the last apportionment, what were the ratios for Assembly and Senate districts? Find the populations of several districts, and see how nearly they correspond to the ratio.

4. When did the last regular session of the Legislature occur? How long did it last? Which party had a majority in the Senate? In the Assembly? How large were these majorities?
5. What were some important subjects considered by the Legislature at this session? What important laws were enacted?
6. Do the people of the State have as much interest in the work of the Legislature as in the work of Congress?
7. Do you think the salary of the legislators should be more than that stated in the Constitution?

## CHAPTER IX.

### HOW LAWS ARE MADE.

**The Committee System.** — In order that the process of passing bills may be understood, a brief explanation of the committee system will be necessary. At the opening of each legislative session, the Speaker of the Assembly appoints about twenty-five standing committees. These differ in size, having five, seven, nine, or eleven members. Every member of the Assembly has a place in at least one of the committees, while many members serve on two or three. The Speaker arranges the membership of committees so that the chairman and a majority of each belong to his political party. In the Senate the standing committees, twenty in number, are elected. There are several joint committees, composed of both Senators and Assemblymen. A list of these committees may be found in the Blue Book.

Article IV, Section 19. Any bill may originate in either house of the Legislature; and a bill passed by one house may be amended by the other.

**Introduction of Bills.** — A member who wishes to introduce a bill rises to his feet, at such time as the introduction of bills is in order, and, after addressing the chair and being recognized, says, "I ask leave to introduce a bill." The bill is carried to the desk of the Chief Clerk by a

messenger.[1] The Clerk then reads the title of the bill and the Speaker announces, "First reading of the bill." The Clerk again reads the bill by its title. The Speaker announces, "Second reading of the bill," and then refers it to such committee as seems to him appropriate, unless the member introducing the bill requests that it be referred to a particular committee.

After the second reading of a bill, three hundred copies are printed if it is an Assembly bill, or two hundred and fifty if it originates in the Senate.

**Powers of Committees.** — The work of the committees is the most important part of legislation, since every bill introduced in either house is referred to a committee before it is considered by the house as a whole. Each committee has regular times for meeting. It will receive testimony and listen to arguments upon bills from those interested; but when making up its report, its sessions are secret. A committee has the power to conduct investigations as a means of getting information. It may alter the provisions of a bill or recommend amendments to it; this is generally done after consultation with the author of the bill. If the committee is opposed to a bill, it will report adversely or fail to make any report whatever. If there is a division of opinion in the committee, the minority may submit a separate report; or any member of the committee may submit his opinion separately. The committees are supposed to give such careful attention to bills that their recommendations may be followed without question by the houses of

[1] Boys are employed to run on errands for members.

FORM OF BILL

## STATE OF WISCONSIN.

# IN ASSEMBLY

No. 1075, A.

July 13, 1911. — Introduced by Mr. PERRY.

# A BILL

To amend subsection 1 of section 1728c — 1 of the statutes, relating to the labor of minors, fourteen to sixteen years of age.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

Section 1. Subsection 1 of section 1728c — 1 of the statutes is amended to read: (Section 1728c — 1.) 1. Whenever any evening school, continuation classes, industrial school, *or* commercial school shall be established in any town, village, or city in this State for minors between the ages of fourteen and sixteen *working under permit as now provided by law, every such child, residing within any town, village, or city in which any such school is established, shall attend such school not less than five hours per week for six months in each year until such child becomes sixteen years of age, and* every employer shall allow all minor employees over fourteen and under sixteen years of age

the Legislature. Comparatively few bills are debated at length, and in very few cases does either house reverse the decisions of its committees.

**The Lobby.** — While this method of making laws allows careful consideration of bills, it also gives opportunity for the working of corrupt influences, since the majority of a committee is much more easily "managed" than a majority of either house. Those individuals who attend sessions of the Legislature for the purpose of inducing members to vote for or against particular bills are called the *lobby*. Sometimes men lobby for good bills, and thus render valuable service to the State; but the professional lobbyist uses his evil influence because it pays him well. Too often he uses money corruptly in bringing about certain legislation. A law requires that lobbyists must be registered, and must state by whom they are employed and what pay they receive. No paid lobbyist shall attempt to influence a member of the Legislature for or against a bill in a private consultation with him.

**Steps in the Passage of Bills.** — When the committee has finished its work, which may be a number of days or weeks later, it *reports the bill back* to the house. The bill is brought before the house by a motion that it be "*engrossed and read a third time.*" Before the motion is put, debate may take place and amendments may be adopted. If this motion is lost, the bill goes no farther. If it is carried, the bill is "engrossed" — that is, copied (with amendments) so as to contain no erasures or interlineations. When it is again called up, the bill is read the third time, by title unless it appropriates money; in that case it is read in full. Then comes the motion that the bill pass, and again debate is in order. Finally the question "Shall the bill pass?" is put. If the vote is affirmative, the bill goes to

the other house, where it passes through a process similar to that just described.

**Conference Committees.** — If an Assembly bill is amended by the Senate, of course that amendment must be acted upon by the Assembly. If the Assembly refuses to concur in the amendment, a conference committee, composed of members of both houses, may be appointed. They try to make a compromise which, while it may not be entirely satisfactory, may be accepted by both houses. Sometimes this method fails to result in agreement, and the bill fails to become a law.

**Submission to the Governor.** — When the same bill has been passed by both houses, it receives the signatures of the Speaker of the Assembly and the President of the Senate. It is then taken to the Governor for his approval. The steps that follow are concisely stated in the following section.

Article V, Section 10. Every bill which shall have passed the Legislature shall, before it becomes a law, be presented to the Governor. If he approves, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large upon the journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the Governor within six days (Sundays excepted) after it shall have been presented to him, the same shall be a law, unless the Legislature shall, by their adjournment, prevent its return; in which case it shall not be a law.

The Governor, by his power to sign or veto bills exercises great influence over legislation. He is consulted when many of the most important bills are drawn up. There are thus three ways in which a bill may become a law:

1. Most bills pass both houses by majority votes and are signed by the Governor.

2. A bill which has passed the Legislature and been vetoed by the Governor must pass again by a two-thirds vote of each house if it is to become a law. Such a vote must be by "yeas and nays" (see p. 42), and the votes of the members must be recorded in order to secure publicity of this action.

3. If a bill passed by the Legislature is not either signed or returned by the Governor within six days, when the Legislature is in session, then it becomes a law. This seldom happens.

**Initiative and Referendum.** — We have seen how in cities and counties laws may be enacted by the initiative and repealed by the referendum. With the idea of applying these methods to State laws, the Legislature of 1911 proposed an amendment to the Constitution, whose terms will now be briefly stated. A bill which has been introduced in the Legislature, and not passed by them, may be submitted to a vote of the people if this is requested by a petition signed by eight per cent of the voters. If approved by a majority of the voters it will become a law without being passed by the Legislature.

A law which has been enacted by the Legislature may

also be submitted to a vote of the people by a similar petition, and if rejected by a majority of the voters it will be repealed.

## SUGGESTIVE QUESTIONS.

1. In how many ways may a bill fail to become a law?
2. Can you determine from the titles of the committees given in the Blue Book what matters are considered by each committee?

## CHAPTER X.

### THE GOVERNOR AND HIS POWERS.

**Local Executive Officers.** — Throughout the State, in all the local divisions, there are officers who are empowered to execute the laws of the State, as well as the laws of the particular localities where they hold office. The town clerk executes a part of the State law on taxation and other subjects; the constable executes the State law when he makes an arrest; likewise, each county officer has duties that are prescribed by the laws of the State. It is evident, then, that the executive power of our State government is exercised in every part of the State and by a multitude of officers.

**The Chief Executive.** — But for the management of certain affairs that are not local in their nature, other executive officers are necessary, and the chief one of these is the Governor.

Article V, Section 1. The executive power shall be vested in a Governor, who shall hold his office for two years. A Lieutenant-Governor shall be elected at the same time, and for the same term.

Section 2. No person, except a citizen of the United States, and a qualified elector of the State, shall be eligible to the office of Governor or Lieutenant-Governor.

Section 3. The Governor and Lieutenant-Governor shall be elected by the qualified electors of the State at the times and places

of choosing members of the Legislature. The persons respectively having the highest number of votes for Governor and Lieutenant-Governor shall be elected.

The Governor and Lieutenant-Governor are elected on the general election day.

**The Governor's Message.** — It has been stated that the Governor has great influence over legislation through his power to sign and veto bills. He may also urge upon the Legislature his ideas concerning the bills that should or should not be enacted into law. He does this by *messages*.

Section 4 (part). He shall communicate to the Legislature, at every session, the condition of the State, and recommend such matters to them for their consideration as he may deem expedient.

The Governor's message at the beginning of each session of the Legislature is usually a lengthy document. It is published, together with the reports of the other executive and administrative officers, in a number of volumes entitled "Wisconsin Public Documents." Besides this message the Governor sometimes sends communications to the Legislature during the session, giving his ideas upon matters that he thinks should receive attention.

**Appointments and Removals.** — In the making of many appointments, the Governor acts jointly with the Senate, though some officers are appointed by him alone. The Governor fills vacancies in elective State offices and in some county offices. He also has power to remove many of the State and some of the county officers.

Article VI, Section 4 (part). The Governor may remove any officer in this section mentioned [Sheriff, Coroner, Register of Deeds, District Attorney, and all other county officers except judicial officers] giving to such a copy of the charges against him and an opportunity of being heard in his defence. All vacancies shall be filled by appointment; and the person appointed to fill a vacancy shall hold only for the unexpired portion of the term to which he shall be appointed and until his successor shall be elected and qualified.

**Special Sessions of the Legislature.** — Article V, Section 4. He shall have power to convene the Legislature on extraordinary occasions; and in case of invasion, or danger from the prevalence of contagious disease at the seat of the government, he may convene them at any suitable place within the State.

During its special session, the work of the Legislature is confined to such business " as shall be necessary to accomplish the special purpose for which it was convened " (Article IV, Section 11).

**Pardons.** — It is customary to give important executive officers the power of granting pardons under certain conditions. This power is stated in our Constitution as follows:

Section 6. The Governor shall have the power to grant reprieves, commutations, and pardons, after conviction, for all offences except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have the power to suspend the execution of the sentence until the case shall be reported to the Legislature, at its next meeting, when the Legislature shall either pardon, or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall

annually communicate to the Legislature each case of reprieve, commutation, or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon, or reprieve, with his reasons for granting the same.

A person who has been convicted of a crime is next sentenced. The sentence is executed by imprisoning or fining him. By a *reprieve* the execution of a sentence is delayed for a time. By a *commutation* the sentence is changed to one less severe.

Before an application for a pardon is made to the Governor, the judge who presided at the trial and the district attorney who prosecuted the case must be notified. At the same time a notice of the application is published in a newspaper of the county where the case arose. The court record and testimony in the case accompany the application. It is customary for the Governor to receive petitions and give a hearing before making his decision.

**Military Powers.** — In times of public disorder the military powers of the Governor may become of vast importance.

Section 4. The Governor shall be Commander-in-Chief of the military and naval forces of the State.

Article IV, Section 29. The Legislature shall determine what persons shall constitute the militia of the State, and may provide for organizing and disciplining the same in such manner as shall be prescribed by law.

The able-bodied male citizens between the ages of eighteen and forty-five are liable to military duty and so constitute the unorganized militia of Wisconsin. The organ-

ized militia (a small portion of the entire militia) is known as the Wisconsin National Guard. It consists, by law of 1899, of not more than forty companies of infantry, one battery of artillery, one troop of cavalry, an adjutant-general's department, a quartermaster-general's department, a medical department, and such other officers as may be required.

Many militia companies have been organized in the larger cities of the State.[1] Sixty-five persons in any county who are liable to military duty may petition the Governor for the privilege of organizing a company. The officers elected are captain and first and second lieutenants, and the company is provided with arms, accoutrements, and stores at the expense of the State. Members of the National Guard are held to service for a term of three years.

The Governor may order the militia, or any part of it, into active service "in case of war, insurrection, rebellion, riot, invasion, resistance to the laws of this State, or of the United States, or in the event of public disaster resulting from flood, conflagration, or tornado."

If a sheriff thinks he will be unable to control a disturbance arising in his county, he applies for assistance to the Governor, who orders into service the militia companies located nearest the scene of disorder. Mayors of cities sometimes apply for the aid of the militia in cases of great disaster, when a large number of men are needed to assist those who have suffered, and to protect property from being plundered.

[1] See the list in a Blue Book. An infantry company consists of a captain, first and second lieutenants, five sergeants, quartermaster-sergeant, five corporals, two cooks, two musicians, an artificer, and not more than forty-eight nor less than twenty-five privates. A battalion is composed of four companies and a regiment of twelve companies. The regimental officers are colonel, lieutenant-colonel, and three majors, one from each battalion. A battery of artillery contains from seventeen to fifty-one men, besides officers. A troop of cavalry has from twenty to forty-three men, besides its officers. In time of war or great public danger all these organizations may be increased in size.

If on duty less than thirty days, the privates receive $2 each day; for service beyond that time the pay is the same as that received by the United States regular troops. The State owns a military reservation at Camp Douglas. Here each company is called to camp and drill for one week during the summer.

The Governor's staff consists of an adjutant-general, quartermaster-general, surgeon-general, each with the rank of brigadier-general, five aides-de-camp with the rank of colonel, and several other officers.

**Adjutant-General.** — The adjutant-general and quartermaster-general have offices at Madison. The former also has the title of inspector-general. He has custody of military records, muster rolls, and reports relating to the militia. It is also his duty to assist persons who are making claims upon the United States Government for pensions.

**Quartermaster-General.** — The quartermaster-general has charge of all military property belonging to the State. The supplies of food, clothing, equipments, and ammunition that are necessary for the militia are purchased and distributed by this officer.

**Naval Militia.** — The law has also provided for four companies of naval militia. They may be called into the service of either the State or the United States, to serve upon water.

**Other Duties of the Governor.** — Some general duties of the Governor are next to be mentioned.

Article V, Section 4. He shall transact all necessary business with the officers of the government, civil and military. He shall expedite all such measures, as may be resolved upon by the Legislature, and shall take care that the laws be faithfully executed.

The Governor takes care that the laws are faithfully executed when he removes an officer who is not performing his duty, and when he calls out the militia to compel obedience to the law.

The laws mention many other powers and duties of the Governor. Whenever he thinks the rights, interests, or property of the State may be injured by the action of individuals, he may order the Attorney-General to bring suit against them. He may offer rewards for the arrest of criminals and escaped prisoners. He is authorized to visit and inspect State institutions. He proclaims certain days to be observed as legal holidays.[1] Once each quarter he shall examine the vaults of the State Treasurer to see if the money there corresponds to the Treasurer's accounts. He appoints notaries public, and is a member *ex officio* (that is, because he is Governor) of many boards and commissions.

**The Lieutenant-Governor.** — Ordinarily, the sole duty of the Lieutenant-Governor is to preside in the Senate. He is not a member of that body and has only a casting vote; that is, if the Senators are equally divided on a certain vote, the Lieutenant-Governor decides the question by his vote.

Section 7. In case of the impeachment of the Governor, or his removal from office, death, inability from mental or physical disease, resignation, or absence from the State, the powers and duties of office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the Governor, absent or impeached, shall have returned, or the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State in time of war, at the head of the military force thereof, he shall continue Commander-in-Chief of the military force of the State.

Section 8. The Lieutenant-Governor shall be President of the Senate, but shall have only a casting vote therein. If, during a vacancy in the office of Governor, the Lieutenant-Governor shall

[1] The legal holidays created by statutes in this State are January 1, February 22, May 30, July 4, December 25, Labor Day, Thanksgiving Day, general election day, and the day of the September primary election; but election days are not legal holidays for schools. When a legal holiday falls on Sunday, the succeeding Monday is a legal holiday.

be impeached, displaced, resign, die, or from mental or physical disease become incapable of performing the duties of his office, or be absent from the State, the Secretary of State shall act as Governor until the vacancy shall be filled or the disability shall cease.

**Salaries.** — The Constitution originally fixed the Governor's salary at $1,250. This was changed in 1869.

Section 5. The Governor shall receive, during his continuance in office, an annual compensation of five thousand dollars, which shall be in full for all travelling or other expenses incident to his duties.

Section 9. The Lieutenant-Governor shall receive, during his continuance in office, an annual compensation of one thousand dollars.

When the Lieutenant-Governor acts temporarily as Governor, he receives in addition to his salary five dollars per day. If he should become Governor, he would of course receive the Governor's salary for the time he occupied the position.

**The Executive Mansion.** — Besides his salary, the Governor is provided with an executive mansion, situated on Gilman Street in Madison. A view of this residence may be found in the Blue Book; immediately back of it is Lake Mendota. The Legislature has appropriated a contingent fund of $2,000 annually during recent years which the Governor may expend as he sees fit, making report of its expenditure to the Legislature. From this fund the Governor meets the cost of official receptions, his own expenses in attendance upon official functions, and the necessary outlay for entertainment and decoration in connection with celebrations and other notable events.

**Inauguration.** — The Governor and Lieutenant-Governor are inaugurated into office on the first Monday of January after general election. In connection with the inauguration, it is customary to have a reception and ball.

## SUGGESTIVE QUESTIONS.

1. Who are the Governor and Lieutenant-Governor of the State? When were they elected? To what party do they belong?
2. Why should the Governor have power to pardon criminals?
3. Is there a military company in your county? Where do they drill? Who are the officers?

## CHAPTER XI.

### THE ADMINISTRATIVE DEPARTMENTS.

**Officers and Boards.** — The execution of State laws and the transaction of detailed business are the work of many State officers and boards that may be grouped together as the Administrative Department.

Article VI, Section 1. There shall be chosen by the qualified electors of the State, at the times and places of choosing the members of the Legislature, a Secretary of State, Treasurer, and Attorney-General, who shall severally hold their offices for the term of two years.

Section 2. The Secretary of State shall keep a fair record of the official acts of the Legislature and Executive department of the State, and shall, when required, lay the same and all matters relative thereto before either branch of the Legislature. He shall be ex-officio Auditor and shall perform such other duties as shall be assigned him by law. He shall receive, as a compensation for his services yearly, such sum as shall be provided by law, and shall keep his office at the seat of government.

Article XIII, Section 4. It shall be the duty of the Legislature to provide a great seal for the State, which shall be kept by the Secretary of State, and all official acts of the Governor, his approbation of the laws excepted, shall be thereby authenticated.

**The Secretary of State.** — It will be noticed that the principal duty of the Secretary of State is to act (1) as Custodian of Records, (2) as Auditor of the State. All enrolled bills that are enacted as laws by the Legislature are deposited in this office; so that any doubt about the

correct wording of laws may be settled by reference to these records. Official acts of the Governor are sent to the office of the Secretary of State. where they are certified by the great seal and the Secretary's signature, without which they are not legal.

**Duties as Auditor.** — As Auditor, the Secretary of State superintends and manages the financial affairs of the State and suggests plans for the improvement of our system of taxation; he keeps account of all moneys received by the State and of all disbursements (that is, amounts paid out) from the treasury; he audits all claims against the State; that is, they must receive his approval before they can be paid. The following section states a fundamental rule of all good government:

Article XIII, Section 2. No money shall be paid out of the treasury except in pursuance of an appropriation by law.

The Secretary of State is guardian of the treasury to see that this rule is obeyed.

Besides these two general lines of duty, the Secretary of State and his subordinate officers and clerks have many miscellaneous duties in connection with elections, taxation, schools, public lands, and many other subjects.

**State Treasurer.** — The State Treasurer receives and pays out all money belonging to the State. He may pay out money only when authorized to do so by a *warrant* issued by the Secretary of State. The Treasurer's bond

is not less than $100,000, and contains the names of six sureties. A part of the money in his charge is deposited in certain banks, where it draws interest; the rest is in the vault of the Treasurer's office.

**Attorney-General.** — It is the duty of the Attorney-General to prosecute or defend all suits in which the State is a party in the Supreme Court, and, when necessary, in other courts. He also gives legal advice to district attorneys and to State officers.

The three officers discussed above, and the State Superintendent of Public Instruction,[1] are elected; all other administrative officers and boards are appointed.

**Insurance Commissioner.** — All insurance companies doing business in Wisconsin must submit to the Commissioner of Insurance reports showing their financial condition and methods of conducting business. If any company is considered unsound, or if it does not comply with the State laws regulating the management of insurance business, it will not be permitted to continue its operations within the State. The taxation of insurance companies by the State is based on statistics collected by the Commissioner.

**Railroad Commission.** — This body, composed of three members, possesses very important powers. It inspects the equipment and management of the railroads of the State "with reference to the public safety and conven-

[1] The duties of this officer will be mentioned in the chapter on Education.

ience." Railroad companies are not regarded as purely private corporations. We have seen that the government gives them the power to condemn property (see p. 34). Because of the nature and importance of their business they are subject to regulation by law in a great many ways. The Commission must see that these laws are obeyed. Any person having a grievance against a railroad company may report it to the Commission and the matter will be investigated. The Commission has power to fix reasonable freight and passenger rates.

The Railroad Commission has similar powers over "public utilities." These are kinds of business upon which the public depends for certain important necessities and conveniences, such as water, lights, street-car service, and telephone service. This Commission oversees the enforcement of the laws governing these kinds of business. It may declare what shall be the rates charged for water, lights, etc., by those who furnish them. This power is necessary to protect the public against excessive rates, when, as is usually the case, there exists a *monopoly*, and people are obliged to obtain service from one plant only. At the same time the Commission guards the interests of the business, seeing that it is allowed to earn fair profits.

**The Industrial Commission.** — We have seen how the State aims to protect its citizens against fraud and bodily harm through the control of railroad and insurance corporations. In many ways the law protects employees against oppression or abuse by their employers. It even goes farther, and prescribes many regulations concerning

the conditions under which persons shall work in factories and other places. The enforcement of these laws is the special duty of the Industrial Commission, composed of three members, with terms of six years. In this office, there are *factory inspectors*. These officers have power to visit and inspect any place where persons are employed, to see that the laws relating to wages, hours of labor, safety and comfort of employees are complied with. Persons may appeal to the bureau for the enforcement of laws governing these matters. The bureau also collects statistics of the industries of the State; these are of great value, as they show what new laws are necessary, and how the present laws should be changed.

The law provides that no child between the ages of fourteen and sixteen shall be employed at any gainful occupation unless he has a permit from an officer of this department, or from a county or municipal judge. Children under sixteen years cannot be employed in any occupation that is dangerous to life or limb or injurious to health or morals. Children under fourteen years may not be employed in any factory, workshop, mine, or barroom. If children are employed at other occupations, they must be twelve years old, and it must be during the vacation period of the schools which they attend. No child under sixteen years of age may work for wages more than eight hours a day, not after six o'clock at night, nor before seven o'clock in the morning. Sweat-shops are prohibited. These are places where some industry is carried on in the living rooms of a family.

Many other laws by which citizens are protected from danger are found on our statute books. Examples are laws requiring that factories, public buildings, hotels, churches, and schools must be provided with outer doors that swing outward. Certain buildings must have fire-escapes. The machinery of factories must be so placed and protected that liability to accident will be lessened. In

certain cases when accidents occur to employees, the law carefully fixes the amount to be paid to the injured person by the employer. The Industrial Commission has power to settle disputes arising in such cases.

**Board of Arbitration.** — As the manufacturing interests of Wisconsin become more extensive, there is greater chance that disputes may arise between employers and employees. The State Board of Arbitration and Conciliation is established as a means of preventing and settling these disputes. A *strike* occurs when the workmen in one or more establishments all agree to quit work because they are not allowed some advantage, such as higher wages, to which they believe themselves entitled. A *lockout* occurs when the managers shut the doors against their employees. In either case the workmen endeavor in every way to prevent others from taking their places. So there may be disorder, violence, and the destruction of property. When a strike or a lockout is threatened, or after it occurs, the members of this board appeal to the contestants and try to persuade them to agree.

**State Boards of Examiners.** — In still other ways the State aims to protect the interests of the people. It is very important that persons who practise a profession, such as law, medicine, dentistry, and pharmacy, should be competent; otherwise the public may be imposed upon by unqualified persons. Before a lawyer can practise as an attorney before a court of record, he must be licensed or admitted to the bar. Graduates of the law school of the State University, and graduates of other law schools of

equal standing, are admitted to the bar without examination. Other applicants must go before the State Board of Examiners; this is composed of five members, who are appointed by the Supreme Court.

The State Board of Medical Examiners, the State Board of Dental Examiners, and the State Board of Pharmacy exist for a similar purpose. They are required to give licenses permitting the graduates of professional schools of good reputation to practise; but all other persons wishing to enter these professions in the State must be examined and obtain licenses.

**State Board of Health.** — Another administrative department — the State Board of Health and Vital Statistics — has been established in the interests of public health. The laws of Wisconsin contain many provisions intended to prevent the sale of impure foods; they also prohibit the sale of adulterations and imitations of certain foods. There are many other laws that seem necessary to protect public health and to check contagious diseases. The town and village boards and city councils may make and enforce many regulations governing these matters. Each of these bodies may act as a board of health or it may appoint such a board. The " health officer " (or " commissioner," as he is called in cities under the general law) is a physician and is a member of this board. His most important duty is to detect and report to the board of health all cases of contagious disease. The board then enforces proper quarantine measures for preventing the spread of the disease. The health officer must also report such cases to the State

Board of Health. This board supervises the work of health officers and boards throughout the State; it may go to any locality and compel the observance of local and State laws on these subjects. Any person may appeal to this board when he thinks that the local authorities are not acting in accordance with the law. A State sanitary inspector acts under direction of this board investigating the sources of sickness and contagious diseases and the sanitary condition of public buildings.

The work of the Dairy and Food Commissioner is also directed toward the preservation of public health. This officer and the experts under him examine dairy products and other foods with reference to their purity and cleanliness. Cheese factories and creameries are subject to inspection by the Commissioner, and he executes the laws regulating the sale of milk.

**Civil-Service Commission.** — There are in the service of the State, besides the elected officers and those heads of administrative departments mentioned in this chapter, many minor officers and employees who get their positions by appointment. Not many years ago persons were appointed to these positions because of some service they had rendered to the political party in power, or because they had certain political friends. Now, however, appointments are made only after the candidates for these positions have passed examinations testing their fitness. These are held by examining boards in the assembly districts. Once appointed, those who hold these positions cannot be removed for political or religious reasons, but only for "just cause." They may be promoted for effi-

ciency in the service. Thus the State has done away with one source of corruption.

**The Board of Control.** — We have seen how the State government oversees the work of local governments in caring for the business interests and the health of the people. The poor and the unfortunate are to a certain extent supported by the local governments. But there are certain classes of unfortunate persons whom it is more convenient to place under the direct care of the State authorities in State institutions, where they may receive special treatment and education. These can best be given to them in the State charitable institutions, which are under the management of the Board of Control. This board has also the management of the State penal institutions. It is composed of five members, and it has complete authority over the finances, the employees, and the internal workings of these institutions.

The State charitable institutions are: School for the Blind, Janesville; School for the Deaf, Delavan; State Public School (for dependent children), Sparta; Home for Feeble-Minded, Chippewa Falls; State Tuberculosis Sanitorium, Wales; State Hospital for the Insane, Mendota; Northern Hospital for the Insane, Winnebago. The State penal institutions are: State Prison and Hospital for the Criminal Insane, Waupun; Industrial School for Boys, Waukesha; State Reformatory, Green Bay.

The Board of Control purchases supplies and disposes of the products made or raised by the occupants of these institutions. Besides these functions, it has supervision of all the local and county poor-houses, asylums, and jails in

the State. It is the board's duty to inspect these places, to investigate their management and the treatment and condition of their occupants, and to report these matters to the Governor with its recommendations. The plans for county asylums, poor-houses, and jails must be submitted to the Board of Control before these buildings can be constructed. Such buildings may be condemned by the board if, in its judgment, they are unsafe or dangerous to the health of the occupants.

**Fish and Game Laws.** — The State recognizes the importance of the sports, as well as the business interests, of its citizens in the regulation of fishing and hunting. Certain times are fixed within which it is unlawful to capture fish and game. Certain methods of hunting and fishing are also prohibited. All police officers are charged with the execution of the law on this subject; besides, there is a State Fish and Game Warden, with deputies throughout the State, whose special duty it is to discover violations of the law. The Board of Commissioners of Fisheries has charge of the breeding and distribution of fish. This is conducted at the State hatcheries, located at Madison and Bayfield, and at a station in Oshkosh. From these places fish are carried to streams and lakes in all parts of the State.

The State Fire Marshal and his deputies investigate the causes of fires and bring to justice those who cause them purposely (incendiaries). The State Board of Forestry has control of the State Forest Reserve. This includes a large amount of land in the northern part of the State which may either (1) be sold to farmers

if it is fitted for agriculture, or (2) kept as a permanent forest reserve. The objects of the latter policy are to prevent the cutting of all forests near the sources of important rivers, and to keep a supply of timber which shall be cut in a proper way, instead of being wasted. A State forester acts under the direction of this board. He oversees the work of the fire wardens in towns where there is danger of forest fires.

The State government assists by appropriations numerous societies which are organized and maintained by the efforts of individuals. These societies are thus enabled to conduct investigations and to print reports that are of great value to students and to the people in general. The Wisconsin Historical Society is supported by the State and holds in trust one of the greatest libraries in the country. This and the library of the State University are placed in a magnificent library building at Madison.[1]

Within a few years an important commission has been created to investigate the natural resources of the State. It is to conduct a Geological and Natural History Survey, and to make a scientific study of the building stones, mineral deposits, soils, and plant and animal life of Wisconsin. The State Conservation Commission has similar duties.

**Free Library Commission.** — The chief duty of this body is to assist by advice and encouragement the free libraries that are maintained in villages and cities throughout the State. It has a number of travelling libraries which it sends to communities where there are no libraries. The Commission also loans books, periodicals, and pamphlets to persons who are studying certain subjects.

**The State and the People.** — Throughout this and other chapters we have spoken of " the State " and " State laws " as if these were above and controlling the people of Wis-

[1] See illustration in Blue Book. A complete list of societies, some of which receive State aid, is found in the Blue Book.

consin. The facts given concerning the administrative department should make it clear that there is no real distinction between the State and the people. The citizens *are* the State; the latter is not an outside power ruling over the people; it is not an abstract idea; nor is it a body of officials at Madison. The laws and the officers merely express the will of the people, who are guardians of their own business interests, health, and welfare. It is the people who protect themselves against the unscrupulous, the cruel, and the selfish members of society through the laws that are administered by the officers and boards that we have been discussing. If, therefore, any of their interests are neglected, the people are responsible in the end, and they have in their own hands the remedy. Every citizen, through his influence upon public opinion, helps to make and execute the laws that guard the well-being of all the people.

### SUGGESTIVE QUESTIONS.

1. Can you mention some laws regulating railroads, as, for instance, upon the subject of speed, signals, etc.?
2. The number of persons in the State charitable institutions is stated in the Blue Book.
3. The Wisconsin Industrial School for Girls and the Workshop for the Blind, located in Milwaukee, receive support from the State.
4. Why should the Board of Control have authority over local asylums, poor-houses, and jails?
5. When a person violates the fish and game laws, against whom is he committing an offence?
6. The administrative officers not mentioned in this chapter are: the Commissioners of Public Lands, Superintendent of Public Property, Commissioner of Banking, Treasury Agent, Pension Agent, Oil Inspector, Lumber Inspector, State Board of

Industrial Education (see p. 126), State Tax Commission (see Chapter XV), State Board of Agriculture, Grain and Warehouse Commission, State Veterinarian, Capitol Commission, Board of Immigration, State Park Board, and several others. Their duties may be learned by reference to the statutes.

7. What are some of the laws relating to pure foods? Are they enforced?
8. What quarantine regulations may be enforced?
9. What are the dates of the open and closed seasons for the various kinds of fish and game?

## CHAPTER XII.

### COURTS AND TRIALS.

**How Cases Arise.** — Thus far in our study of the government of Wisconsin we have had in mind chiefly the processes by which laws are enacted, and executed or administered. If all men could agree upon the exact meaning of these laws, and if all were disposed to obey them, little more government than has been described would be necessary. Because neither of these things is true, another distinct department of government becomes necessary — the judiciary — with officers and courts in both local and State governments. It is natural that men should differ in their interpretation of laws; and, unfortunately, the violation of law is very common. It is in these ways that cases arise, and it is for the trial of cases that courts and judicial officers are provided.

**Courts of the State.** — Article VII, Section 2 (part). The judicial power of this State, both as to matters of law and equity, shall be vested in a supreme court, circuit courts, courts of probate, and in justices of the peace. The Legislature may also vest such jurisdiction as shall be deemed necessary in municipal courts, and shall have power to establish inferior courts, in the several counties, with limited civil and criminal jurisdiction.

We will now consider each of these courts, beginning with the least important.

**Justice Courts.** — Justices of the peace are elected at the spring election. In every town there are four justices, two being elected each year for a term of two years. In villages there are two justices and there may also be a police justice. The latter officer is usual in cities.

**The County Court and Probate Business.** — Instead of "courts of probate" we have the county court, composed of one judge in each county. This judge is elected for a term of four years. Probate business includes the settlement of the estates of deceased persons, the appointment of guardians for minors, and other matters naturally arising in connection with these subjects. A person who dies without leaving a will is said to die *intestate;* the county judge appoints an administrator of the estate. If the deceased leaves a will, some person will be named in it as *executor*. Administrators and executors of estates dispose of the property in their charge in accordance with the laws provided in such cases. They, as well as guardians, are under supervision of the county judge and make reports to him of the conduct of this business.

**Municipal and Inferior Courts.** — In cities and in many counties the amount of judicial work is great and its nature is such that other courts besides justice courts are necessary. Hence we have the municipal and inferior courts mentioned in Section 2, above. These are not organized into a uniform system, as the justice and circuit courts are, but the Legislature has provided for them in cities and in certain other localities according to the circumstances of each place.

**Circuit Courts.** — The map in the Blue Book shows the division of the State into some twenty circuits. In all but a few cases, a circuit includes two or more counties. A term of this court is held at least twice each year in each county. The term of office of circuit judges is six years.

**Officers of the Circuit Court.** — An important officer of the circuit court is the clerk, who keeps its records and attends to various details of its business.

The sheriff and the district attorney are properly regarded as officers of the circuit court. It is the duty of the former to be in attendance at its sessions, to take charge of prisoners and juries, and to execute the orders and writs of the court. The district attorney is the prosecuting lawyer in criminal cases, and he defends the county in civil suits that may be brought against it.

**The Supreme Court.** — Our system of courts is completed by the supreme court, which sits at Madison.

Section 4. The chief justice and associate justices of the supreme court shall be severally known as the justices of said court, with the same terms of office of ten years respectively as now provided. The supreme court shall consist of seven justices, any four of whom shall be a quorum, to be elected as now provided, not more than one each year. The justice having been longest a continuous member of said court, or in case two or more such senior justices shall have served for the same length of time, then the one whose commission first expires shall be, ex officio, the chief justice.

The terms of the court begin in January and August of each year. The supreme court appoints its own clerk. Vacancies in circuit and supreme courts are filled by appointment by the Governor.

**Election of Judges.** — Section 9 (part). There shall be no election for a judge or judges at any general election for State or county officers, nor within thirty days either before or after such election.

In the performance of their duties it is very important that judicial officers should be impartial. The pure administration of justice requires that questions of party politics should not have anything to do with the decisions of judges. Hence it is that all such officers are elected at the spring election, at the same time as local officers, instead of at the general election, when party feeling is more apt to determine how men shall cast their ballots. In order to make this more sure, the law provides that no judicial officer shall be nominated on a party ticket.

**Kinds of Cases.** — We have now before us an outline of the judicial system of Wisconsin, ranging from the lowest courts to the highest. We shall next see how the trial of cases is ordinarily conducted. In every case there are two parties—the *plaintiff*, who begins the case by complaining of some other person's wrong action, and the *defendant*, against whom the suit is brought. There are two kinds of cases, *civil* and *criminal*. The difference between them may be seen when it is said that in a civil case one party is supposed to have wronged another, but the injury does not extend farther. For instance, a person may not fulfil a contract that he has signed; an employer may fail to pay his workman's wages; there may be a dispute as to the ownership of a piece of land; or it may be claimed that a certain deed or other legal document is not valid.

In a criminal case, on the other hand, it is supposed that

a wrong has been committed, against an individual in most instances, but the nature of the criminal act is such that the *public peace, dignity, or security are also affected.* Hence these criminal acts have been prohibited by law, and those who commit them should suffer the penalties fixed by law. Because public interests are affected by criminal acts, the State is plaintiff in all criminal cases; and there are public officers whose duty it is to prosecute such cases. Among the most serious crimes are treason, murder in its various degrees, arson, burglary, theft, robbery, perjury, bribery, and embezzlement. Some of the minor criminal offences are assault and battery, unlawful assembly and riot, and trespass.

**The Complaint.** — The first step in a criminal prosecution is the *complaint* — a formal accusation against the supposed criminal. Any person who has been wronged by a criminal act may go before a justice of the peace or other judicial officer and state the facts involved. It is also the privilege, and we may say that generally it is the duty, of every citizen to take the same measures when he knows that public interests are suffering from the violation of law. Moreover, it is the sworn duty of each district attorney, justice of the peace, constable, marshal, sheriff, and policeman to make this accusation in cases of law-breaking that come within his knowledge. In every instance, however, the complaint must contain a specific accusation against a particular person, in which the complainant makes oath that he knows or believes the accused to be guilty. Some caution is required in taking this step,

and this is one reason why the violation of law frequently goes unpunished.

**Arrest.** — Following the complaint a *warrant of arrest* must be issued by the justice. A person may be arrested without the complaint and warrant if he is caught in the act of committing an offence, or if there has been no opportunity for the issuance of a warrant. He must then be taken before a judicial officer, so that the complaint and warrant may be duly issued.

**Search for Goods.** — If in the course of a criminal prosecution it becomes necessary to find goods that are concealed, the justice will issue a *search-warrant*. An affidavit (that is, a sworn statement — one made under oath) must be made containing a specific description of the goods and the place where they are supposed to be. This is in accordance with a clause of the Constitution:

Article I, Section 11. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

This rule applies to warrants of arrest, as well as to search-warrants, and protects us against being annoyed by persons who might obtain these warrants when there were no good reasons for their being used.

**Trials in Justice Courts.** — The court in which a case will be tried depends upon the nature of the offence and

the place where it was committed. Justices of the peace may try persons accused of crimes for which the punishment is not more than six months' imprisonment in the county jail or a fine of $100, or both such fine and imprisonment. Police justices in cities have authority to try offences committed against the city ordinances, and they have also the same criminal jurisdiction (within the city) as justices of the peace. Municipal courts may be given jurisdiction over both minor and serious offences.

In a justice court the trial will be without a jury, unless the accused demands one. In this case the constable writes the names of eighteen inhabitants of the county liable to jury duty; from this list each party to the suit strikes out six names. The remaining six constitute the jury. Juries in civil suits are obtained in the same manner.

**Preliminary Examination.** — A justice of the peace or municipal judge may issue a warrant for the arrest of a person charged with a more serious crime than could be tried before him. In this case the justice or judge holds a preliminary examination *in order to determine whether the accused person shall be held for trial in the circuit court.* The testimony of witnesses is taken and arguments of lawyers are heard as far as may be necessary to determine whether there is good reason to believe the prisoner guilty of the offence charged. If there is not good evidence upon this point the prisoner will be discharged. Otherwise he will be admitted to bail; other persons sign a bond agreeing to forfeit a sum of money if the accused person does not appear at the time set for his trial. If he cannot ob-

tain bail, he will be committed to jail to await trial at the next session of the circuit court. The Constitution states that "excessive bail shall not be required."

**Selection of a Jury.** — Before proceeding to describe the trial of a prisoner in the circuit court, let us see how the jury is selected. The judge of the circuit court appoints in each county of the circuit three *jury commissioners*, one each year, for terms of three years. These commissioners make a list of names of persons residing in the county who are qualified to serve as jurors. The number of names is determined by the judge. The list is put into the hands of the clerk of the circuit court, who writes the names on slips of paper and deposits them in a box. At a meeting of the commissioners, held from fifteen to thirty days before the term of the circuit court, the clerk draws from the box by lot thirty-six names. The persons thus selected are the *petit jury* for that term of the court. They constitute the *panel* from which a *trial jury* is drawn, as each case requiring a jury comes before the court for trial.

**Who May Be Jurors.** — All persons who are citizens of the United States and qualified electors of this State are liable to jury duty, unless exempt. The jury commissioners are directed, in making out their list, to select "such persons only as they know or have good reason to believe are possessed of their natural faculties, and are not infirm or decrepit; who are esteemed in their communities as men of good character, approved integrity, and sound judgment, and who are able to read and write the English language understandingly." The following is a list of the principal classes of persons exempt from jury duty: officials, ministers, physicians, lawyers, dentists, teachers, presidents and cashiers of banks, telegraph operators, most railroad employees, members of fire com-

panies that are organized according to law, members of militia companies, persons more than sixty years of age, persons who have served as petit jurors within one year.

**The Trial Jury.** — Each petit juror is summoned by a *venire*, and all remain in attendance during the term of the circuit court. For this service they receive three dollars per day and six cents mileage. When a case that requires a jury is about to be tried, the trial jury is selected in the following manner: The names of the petit jurors have been written on a slip of paper and placed in a box. Twelve names are then drawn by lot and each juror is accepted, unless objection is made to his serving on this case. If the judge is satisfied that he would not be "indifferent," or unprejudiced, he is excused "for cause." Failing to have the juror excused on these grounds, the party not wishing him may reject him peremptorily — that is, without giving a reason. The law entitles each party in a case to a certain number of *peremptory challenges*. It may thus happen that the entire panel of the petit jury may be exhausted in the effort to get a satisfactory trial jury. New names may then be drawn from the list made by the jury commissioners. This list must be kept supplied with names to the number of at least 150. Or persons competent to serve as jurors may be taken from the bystanders. Persons thus chosen are called *talesmen*. When twelve jurors have been accepted, the trial jury is complete.

Among the fundamental guarantees contained in the declaration of rights of our Constitution are the following, which are intended to secure fair treatment to an accused person when on trial for a crime:

Article I, Section 7. In all criminal prosecutions the accused shall enjoy the right to be heard by himself and counsel, to demand the nature and cause of the accusation against him, to meet the witnesses face to face, to have compulsory process to compel the attendance of witnesses in his behalf, and in prosecutions by indictment or information, to a speedy public trial by an impartial jury of the county or district wherein the offence shall have been committed, which county or district shall have been previously ascertained by law.

In all criminal cases the judge and jury must assume that the accused person is innocent. The prosecuting attorney (in the circuit court the district attorney) must present proofs of guilt, and the prisoner is given every opportunity for defence. If he is unable to employ a lawyer, one will be furnished at the expense of the county. Witnesses may be *subpœnaed* by both parties in the case, but no accused person " shall be compelled in any criminal case to be a witness against himself " (Section 8).

**Steps in a Trial.** — Witnesses are first called by the prosecution; that is, by the district attorney. Each is given a direct examination and is then subjected to *cross-examination* by the defendant's attorney. The testimony of witnesses for the defendant is next taken and they are cross-examined by the prosecution. In a jury trial the judge decides all questions of law that arise; the jury decides questions of fact. Some questions of law are: Should a certain person be allowed to act as juror? Should a witness be obliged or allowed to give his testimony? When the ruling of the judge upon one of these questions is not satisfactory to one party in the case, his attorney

may take *exception* to it. At the close of the trial the attorney for the defeated side may collect these exceptions into a *bill of exceptions*. He may use these instances as arguments to show why the case should be tried again. But the Constitution says that "no person for the same offence shall be put twice in jeopardy of punishment." So if he is acquitted he cannot be tried again for the same offence.

When all the testimony has been heard, the lawyers deliver their arguments and the judge gives the *charge* to the jury. He instructs them concerning the law governing the case they are deciding, leaving the jury free to determine what facts have been proved by the testimony. The sheriff then takes charge of the jury and they are kept from contact with other persons until some conclusion is reached — either a unanimous decision of the case or a failure to agree. The decision of the jury is called a *verdict*. If the prisoner is convicted, the judge pronounces *sentence* and directs the sheriff to *execute judgment* upon the person of the one convicted, by committing him to jail, or upon his goods by compelling him to pay a fine. Or, the judgment may include both imprisonment and fine. When imposing a penalty the judge must be guided by the rule against "excessive fines" and "cruel and unjust punishments" (Article I, Section 6).

**Civil Cases.** — These are of two kinds: equity cases and law cases. In the former there is no jury, the judge hearing and deciding the case alone. The first step in a civil case occurs when the plaintiff causes a *summons* to be

issued, requiring the defendant to appear at a certain time and defend the suit. If the defendant fails to appear at the time and place specified, judgment is rendered against him. In some civil cases the defendant may be arrested on warrant. The trial proceeds by the hearing of testimony very much as in a criminal case.

**Appeals.** — Questions of law that arise in either civil or criminal cases may be appealed from a lower to a higher court in accordance with the provision that —

Article I, Section 21. Writs of error shall never be prohibited by law.

It may be claimed by the party making the appeal that the court where the case was tried had not jurisdiction over it, that the proceedings of the trial were not correct, or that the rulings of the court, as stated in the bill of exceptions, were contrary to law.

**The Jurisdiction of Courts.** — When we speak of the jurisdiction of a court, we mean the extent of its power to consider cases. This power is limited (1) geographically, (2) by the nature of the cases that arise. The jurisdiction of a justice of the peace extends over the county in which he is elected; a circuit court as well as the supreme court has jurisdiction over cases arising anywhere within the State. Municipal and inferior courts hear cases only within certain cities, towns, or counties. A case may be removed from one justice to another; or from the circuit court of one county to that of another, if there are reasons why an impartial trial cannot be had in the court where

the case originated. The prejudice of the judge or the people, or the peculiar relations of the judge to the parties in a case, may be given as reasons for a *change of venue*, as these removals are called. Sometimes a circuit judge is called to hear a case in another circuit than his own.

The jurisdiction of courts also depends upon the nature of cases. The criminal jurisdiction of the justice courts has been stated (see p. 80). The justice courts may try certain civil cases when the amount in dispute does not exceed $200. The jurisdiction of each municipal court is stated in the law creating it.

**Original and Appellate Jurisdiction.** — A court has *original* jurisdiction over cases which may be begun in that court. It has *appellate* jurisdiction over cases that may be appealed to it from lower courts. Thus the circuit courts and supreme court hear cases appealed to them, as well as trying other cases that are begun in those courts. But only questions of law can be appealed to the supreme court. "In no case removed to the supreme court shall a trial by jury be allowed" (Article VII, Section 3). The supreme and the circuit courts have power to issue certain writs.

Article I, Section 8. The privilege of the writ of *habeas corpus* shall not be suspended unless when in cases of rebellion or invasion the public safety may require.

Article VII, Section 3. The supreme court shall have a general superintending control over all inferior courts; it shall have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari and other original and remedial writs, and to hear and determine the same.

Section 8. They [circuit courts] shall also have the power to issue writs of habeas corpus, mandamus, injuction, quo warranto, certiorari, and all other writs necessary to carry into effect their orders, judgments, and decrees, and give them a general control over inferior courts and jurisdiction.

**Habeas Corpus.** — When a person thinks himself illegally imprisoned (except it be by virtue of the final decree of a court) he may apply for this writ by having drawn up in his behalf a petition that states the grounds upon which he thinks the imprisonment illegal. This petition may be addressed to a judicial officer, who immediately upon receiving it shall issue the writ of *habeas corpus*. This writ commands the officer who is in charge of the prisoner to bring him before the judge who issued the writ, who will decide whether he is legally held or not.

In times of great public danger it is sometimes necessary to arrest and hold persons who are suspected of criminal acts or intentions, when it is impossible to secure sufficient evidence to hold and try them regularly. This is the case when "martial law" is declared to be in force. But individuals might suffer great wrongs if such arbitrary power could be exercised at any time or under ordinary circumstances. In Russia, however, persons are arrested and held, and sometimes even punished, without being given an opportunity to appear before a court.

**Other Writs.** — The writ of *mandamus* commands an inferior court or a person to perform a certain duty. An *injunction* orders a person to do or not to do a certain thing. The writ of *quo warranto* sets in action an inquiry as to the right of a person to perform a certain act. The writ of *certiorari* calls the record of a case, or the case itself, from an inferior to a higher court to see if the court which tried the case had jurisdiction over it.

**The Courts and the People.** — We have taken a very general view of the courts of the State. The judgments of these courts may not at times be in accord with our

ideas of absolute justice, but so far as the law is concerned their decisions are final and should be accepted by all good citizens. If the courts grossly violate the people's ideas of real justice, means are provided whereby, through elections and legislation, such wrongs may be remedied.

**Impeachment.** — Not all the judicial business of the State is conducted in the courts. One important function of this nature is vested in the Legislature; this is the power of passing judgment upon the conduct of officers by process of impeachment.[1]

Article V, Section 1 (part). The court for the trial of impeachments shall be composed of the Senate. The House of Representatives shall have the power of impeaching all civil officers of this State, for corrupt conduct in office or for crimes and misdemeanors.

To impeach is to accuse; this step is first taken by the Assembly. Then the officer impeached is *tried* by the Senate and there "no person shall be convicted without the concurrence of two-thirds of the members present." A convicted officer may be removed from his position and disqualified from again holding any office under the State government. Or the punishment may be less severe.

## SUGGESTIVE QUESTIONS.

1. **The processes described in connection with trials can best be understood by the use of legal blanks which may be obtained from lawyers, local officers, or printing-offices. The class should have blank forms for** *complaint, summons, warrant of arrest, search-warrant, venire, subpœna.*

[1] Cases of this kind occur so seldom that it is not necessary to learn their details. A brief statement is sufficient.

2. In what judicial circuit do you live? How large is it? Who is circuit judge? When and where are the regular terms of this court held? Have you visited this court when in session?
3. In the Blue Book will be found the names and terms of service of the supreme court justices. If you went to Madison, where would you expect to find this court in session?
4. Who are the justices of peace in your town or village? The police justice? The county judge?
5. Trace the work of the sheriff in a criminal case.
6. Some persons try to avoid being jurymen? Why? Is this right?
7. Do you know of instances when the law has been violated, but no complaint has been made? Why was none made?
8. Can you see the difference between search-warrants and the "writs of assistance" that were used about 1760 to enforce the navigation acts? (See James and Sanford, American History, pp. 143–144.)
9. It was formerly required that every accused person should be *indicted* (that is, formally accused) by a *grand jury* before he could be tried. At present a circuit judge may summon a grand jury at any time to investigate wrong-doing and to indict persons against whom no complaint has been made. Ask a lawyer if such a jury has been summoned in your county within recent years.

## CHAPTER XIII.

### NOMINATIONS AND ELECTIONS.

**Why Elections are Important.** — Probably the most interesting operation of government is that by which men are elected to office. Elections are important not only because of their direct results, but also because of the large number of citizens who take part in them. Also, because those who vote try to express their ideas as to the right policy of government, and to express their judgment as to the men best fitted for the conduct of public business. Here, more than in any other operation of government, we are made to realize that the people rule.

**Qualification of Voters.** — It is natural at the beginning of this topic to inquire, Who are voters? The Constitution of the State answers the question very definitely.

Article III, Section 1. Every male person of the age of twenty-one years or upward belonging to either of the following classes who shall have resided within the State for one year next preceding any election, and in the election district where he offers to vote such time as may be prescribed by the Legislature, not exceeding thirty days, shall be deemed a qualified elector at such election.

1. Citizens of the United States.

2. Persons of foreign birth who prior to the first day of December, 1908, shall have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization, provided, that the rights hereby granted to such persons shall cease on the first day of December, A. D. 1912.

3. Persons of Indian blood who have once been declared by law of Congress to be citizens of the United States, any subsequent law of Congress to the contrary notwithstanding.

4. Civilized persons of Indian descent not members of any tribe; *provided*, that the Legislature may at any time extend by law the right of suffrage to persons not herein enumerated; but no such law shall be in force until the same shall have been submitted to a vote of the people at a general election and approved by a majority of all the votes cast at such election; *and provided further*, that, in incorporated cities and villages, the Legislature may provide for the registration of electors and prescribe proper rules and regulations therefor.

We see that every voter must have five separate qualifications: (*a*) Male. (*b*) Twenty-one or more years of age. (*c*) Residence in the State for one year. (*d*) The Legislature has fixed a residence of ten days where a person offers to vote. (*e*) The voter must have at least one of the four qualifications next stated: (1) He may be a citizen of the United States. (2) Or, before December 1, 1912, he may be a foreigner who has declared his intention to become a citizen (taken out his " first papers "), provided he did this before December 1, 1908. (3) He may be a Stockbridge Indian. (4) He may be an Indian who has renounced his tribal relations and has ceased to receive support from the United States Government. These are the " civilized Indians " referred to in subdivision 4 of the section quoted.

**Woman Suffrage.** — Women who are otherwise qualified may vote in " any election pertaining to school matters." That is, they may vote at school meetings in districts, and for school officers of all kinds. The Legislature of 1911 passed a law extending the right of suffrage to women in

all elections, to take effect upon receiving a majority of the votes cast upon that subject at the general election of 1912.

**Who May Not Vote?** — Section 2. No person under guardianship, non compos mentis, or insane, shall be qualified to vote at any election; nor shall any person convicted of treason or felony be qualified to vote at any election, unless restored to civil rights.

Section 6. Laws may be passed excluding from the right of suffrage all persons who have been or may be convicted of bribery, or larceny, or of any infamous crime, and depriving every person who shall make, or become directly or indirectly interested in, any bet or wager depending upon the result of any election, from the right to vote at such election.

Article XIII, Section 2. Any inhabitant of this State who may hereafter be engaged, either directly or indirectly, in a duel, either as principal or accessory, shall forever be disqualified as an elector, and from holding any office under the Constitution and laws of this State, and may be punished in such other manner as shall be prescribed by law.

Persons under guardianship are those not competent to care for themselves. *Non compos mentis* means not of sound mind. Felony is a crime for which the offender is liable to be punished by imprisonment in the State prison. Such persons may be restored to civil rights when pardoned, or when their terms of imprisonment expire, by act of the Governor. Laws have been passed excluding from the suffrage the persons mentioned in Section 6.

**Times of Elections.** — Article XIII, Section 1. The political year for the State of Wisconsin shall commence on the first Monday in January in each year, and the general elections shall be holden on the Tuesday next succeeding the first Monday in November.

As has been stated, the elections for town, village, and city officers occur in April. Judges, the State Superintend-

ent, and County Superintendents are elected at the same time; other school officers are elected in July. Other county and State officers are elected in November at the "general election."

**The Primary Election System.** — Before an election can be held, candidates must be selected or *nominated*. Candidates who are to be voted upon at the general election are placed in nomination by the direct votes of the people. The first Tuesday in September in the even-numbered years is declared to be Primary Election Day, for the nomination of these candidates.

Any person who wishes to become a candidate for office must obtain a certain number of signatures to a petition; this must be filed with the proper official at least thirty days before the primary election. Then his name will be printed upon the ballot of his party that is used at that election.

On the day of primary election, the voters of all parties go to the polls. Each voter marks the names of the persons whom he prefers as candidates at the coming election, also those who would be his second choice for each position. Thus the voter expresses his choice between several men of his party who may wish to become candidate for Sheriff or Governor. In the case of each office mentioned on the ticket, the person receiving a majority of first-choice votes becomes the nominee of his party.

If the person (as Mr. A) who has the highest number of first-choice votes for a certain office does not have a *majority*, then the one who received the smallest number of such votes (say Mr. D) is

dropped. Each voter who voted for Mr. D as his first choice is supposed to have voted for another candidate (A, B, or C) as his second choice. *These votes* are now added to the first-choice votes of A, B, and C. This may result in one of the three having a majority; if not, then the lowest of these is dropped and the second-choice votes of those who voted for him are distributed. This process is continued until one candidate has a majority for that office.

The primary election law discussed above does not apply to certain officers, viz., to State Superintendent, County Superintendent, town, village, or school district officers, nor to most judicial officers. City officers, who are elected at the spring election, are nominated at a primary election held two weeks before election day.

Candidates for the position of United States Senator are nominated under the primary election law at the September primary. In the year when a presidential election occurs, delegates to the National Conventions are elected at the spring election.

**Another Method of Making Nominations.** — Persons may become candidates for the offices mentioned as exceptions to the primary law (superintendents, judges, etc.) by having "nomination papers" filed in their behalf. These are petitions, signed by a certain number of voters, asking that these names be placed upon the official ballot used at the election. The candidates of new parties, and persons who wish to run for office independently of any party, are also nominated in this way. Their names appear upon the official ballot in the column headed "individual nominations."

**The Process of Election.** — Notices of the time for a general election, stating the officers to be voted for, are issued by the Secretary of State several months before the election occurs. In each county, the county clerk

publishes a similar notice, and the town and village clerks and the inspectors of elections in cities post notices in their respective election districts.

**Registration.** — The law requires the registration of voters in every town, village, and city having a population of five thousand or more, and there may also be a registry in smaller places. Several days are selected by law as times for registration. The inspectors of election act as registration officials. The registry of voters is printed and posted for public inspection. When every one may see the list of voters there is less chance that persons will vote illegally; and as the names are checked upon the registry lists when voters cast their ballots, it is not easy for a person to vote more than once. A voter who has not registered may " swear in " his vote; that is, he may make an affidavit that he possesses the qualifications entitling him to cast his ballot.

**The Official Ballot.** — For general elections, the county clerk is required to have official ballots printed containing only those names that have been certified to him as nominees of political parties, or the names of persons who have obtained nomination papers. The ballots are delivered to the proper election officials.

**Officers of Election.** — The officers of election are three inspectors, two clerks of election, and two ballot clerks. In towns the supervisors are the inspectors of election. In villages and cities all of the officers mentioned are appointed from the two leading political parties.

**Casting the Ballots.** — Within the voting booth the voter obtains an official ballot from the ballot clerks after they have found his name on the registry list. He then proceeds to one of the screened compartments, where he marks and folds his ballot. Passing to the ballot-box, he gives his name to the election clerks and deposits the ballot. These and other precautions are taken to secure secrecy in the process of voting.

**Challenging Votes.** — Besides the election officers mentioned there may be present in the booth two representatives of each party, duly appointed, who are called "challengers." They or any other elector may challenge the right of any person to vote. The one challenged must thereupon answer, under oath, certain questions that will be put to him concerning his qualifications as a voter at that election. (See Revised Statutes, Section 68.)

**The Canvass.** — When the polls are closed the official canvass of the election begins. The inspectors first count the ballots to see that the number corresponds with the number of persons who have voted, as shown by the poll list. The next step is the counting of the votes received by each candidate. A statement of the result is filed with the town, village, or city clerk, and a duplicate of this is sent to the county clerk. When the returns have been gathered from all parts of the county, the county board of canvassers, composed of the county clerk and two other persons (generally county officers), gather the statistics into a tabulated statement showing the total number of votes cast for each candidate in the entire county. When the

anvassing board have thus determined who have been elected, the county clerk issues *certificates of election* to the successful candidates. A statement of the votes cast in the county is sent to the Secretary of State at Madison. The State board of canvassers consists of this officer, the State Treasurer, and the Attorney-General. It is their duty to ascertain, from the returns of all the counties, the number of votes received by candidates for State officers. Certificates of election are then issued to successful candidates by the Secretary of State. Separate boards of canvassers are also provided for Assembly, Senatorial, and Congressional districts when these comprise more than one county. Unless the election is close, the result is known through the newspapers on the day after the election; but it is only through the formal action of these canvassing boards that the results are officially determined.

**Recall of Officers.** — An officer who is guilty of doing great wrong may be removed by impeachment (see p. 88) or other legal process. But such action requires proof of gross misconduct. It seems desirable that the people should have the power of removing an officer whose policy appears to be opposed to public interests, even though he has committed no act that violates his oath of office. Hence the Legislature of 1911 proposed an amendment to the Constitution, as follows:

Article XIII, Section 12. The Legislature shall provide for the removal by recall from office, by the qualified electors of the election district in which any officer is elected, of every public officer in the State of Wisconsin holding an elective office, except judicial officers.

**The Corrupt Practices Act.** — The law contains very strict rules that must be observed by candidates and other persons who conduct a campaign. Candidates are limited in the amount of money they may expend, and their election expenses must be for certain purposes only. Their expenditures must be made either personally or through certain persons whose names are officially recorded. Sworn statements of the amounts must be filed at times fixed by the law. No candidate may promise, if elected, to appoint a certain person to office. No political service rendered on the day of election or of the primary shall be paid for. The Secretary of State publishes a pamphlet containing statements about candidates for State and Legislative offices, and for Member of Congress and United States Senator. This is sent to each voter before primary election day. A similar pamphlet containing statements of candidates, of party principles, and arguments for and against any law or constitutional amendment that is before the people is sent to the voters before the general election.

The purpose of these and many other provisions is to prevent the corrupt use of money, the use of large amounts of money, and the printing of false or misleading statements in connection with elections.

### SUGGESTIVE QUESTIONS.

1. **In your locality do women avail themselves of the right to vote when they have this privilege?**
2. **To understand the process of nomination one should obtain blank petitions for nominations and sample primary election ballots. Also, make newspaper clippings of the official notices for the various steps taken in connection with nominations. Make a list of these steps, with dates.**

3. Obtain sample copies of official ballots and learn how " straight " and " split " tickets are voted.
4. Make a diagram of the voting booth and show the details of the voting process.
5. What reasons can you give why the law insures the secrecy of the ballot?
6. Should the suffrage be given to women? References and materials on this and other interesting questions for debate may be procured, free of charge, from the Extension Division of the State University, Madison. Also, directions and other assistance in forming debating clubs will be freely given by this department.
7. Some men do not vote on election day. What shall we say of those who neglect voting without good reason? Is it as important to vote at the primary as at general election?

## CHAPTER XIV.

### HIGHWAYS AND PUBLIC HEALTH.

**Good and Poor Roads.** — Many persons do not realize the importance of good roads. They do not stop to think that poor roads really cost more in the course of years than the expense of improving them would amount to. With good roads, horses and wagons last longer, much valuable time is saved in travelling, heavier loads can be hauled, and the markets can be reached more readily at times when the prices of produce are favorable. This takes no account of the inconvenience suffered from bad roads, and the pleasure and profit that come in social ways to those who can use good roads. When school, church, and town can be reached readily by the farmer and his family, their lives become broader and more full of contentment.

**Town and County Highways.** — In rural districts the town had at first quite complete control of road improvement. The laws also provided for county aid in improving roads and building bridges. But it was realized that when this work was supervised entirely by town officers, who generally had no special knowledge of the art of road-building, the results were not satisfactory.

More recently the law provided that the county board might lay out a system of county roads, to be built or im-

proved under the direction of a commissioner of highways, the expense to be shared by the county and towns.

**State Highway System.** — The law now establishes a system of "State highways," which are to be built under the supervision of the State Highway Commission. This body consists of five members. A road which has previously been improved and adopted as a county road now becomes a part of the State highway system.

If it has not already done so, the county board lays out, under the direction of the State Commission, a system of highways. It levies a tax of not more than three mills on each dollar's worth of taxable property in the county for their improvement. If a town meeting levies a tax of sufficient amount for road improvement under this law, it then petitions the county for aid. The county board in turn notifies the State Highway Commission of the proposed improvements. If it approves of them, it will appropriate not more than one-third of the cost of improving the roads, and not more than one-fifth of the cost of constructing the bridges, from the "State highway fund." This fund comes from a State tax levied by the Legislature, and in 1912 amounted to $350,000. Three-fourths of the revenue derived from the taxation of automobiles and motor-cycles goes into the county highway fund. The remainder goes into the State fund.

**The Purpose of State Supervision.** — The actual work on the State highways is done under the supervision of the county highway commissioner or the State Highway Com-

mission. In either case the plans must be approved by the latter, and it inspects the work done. Thus, by State supervision, more expert knowledge and more thorough work are gained; while by State aid the burden will not rest entirely upon the rural communities, but will be shared by the tax-payers of villages and cities. The latter, of course, must bear the entire expense of street improvement within their own limits; but they are also benefited by the building of good roads in the country surrounding them.

**Causes of Disease.** — Another matter which is now receiving much more attention than formerly is *public health.* It is now realized that nearly all sickness and disease are caused in three ways: (1) by bad habits of living, (2) by bad surroundings, and (3) by contagion. The government cannot control every action of an individual which may result in disease, but it does attempt to compel all persons to live and work in healthful surroundings, and to oblige them to avoid carrying disease to others.

The laws contain many provisions aimed to discourage young persons from acquiring bad habits that may ruin their health; as, for instance, laws against cigarette smoking and the use of intoxicants by minors. It provides that all schools and workshops shall be well ventilated and sanitary. Physical training, as well as instruction in hygiene, shall be given in every school. In cities, parks, play-grounds, and gymnasiums are maintained with the same end in view. For the sick and diseased, cities provide hospitals. The State has a tuberculosis sanatorium at Wales, and counties may also establish such institutions.

The government prohibits the manufacture and sale of unclean foods. Under the Dairy and Food Commissioner (see p. 68), inspectors examine creameries, cheese-factories, and dairies, as well as the factories where foods are manufactured and stores where they are kept and sold. Under the Industrial Commission (see pp. 64–66) there is a bakery inspector. Food may not be exposed for sale where dust and disease germs may lodge in it. Under the State Board of Health (see pp. 67–68) a sanitary inspector examines into the conditions of living that are unhealthful.

Very strict regulations have been made for the control of contagious diseases. Some persons through ignorance, and, strange to say, others through carelessness, expose the public to these diseases. So the law contains rules for *quarantine* in such cases; also for the disinfection of houses, schools, and other public buildings. It is the duty of a teacher to report to the local board of health or health officer suspected cases of contagious diseases, and to exclude the pupils from school.

The enforcement of all these and many other laws falls first upon the local board of health. This is the town board, the village board, or the city council, unless a special board is provided by these bodies. In many cases a physician is appointed as health officer. But the State Board of Health may take charge of this work in any place when necessary. It may be readily seen that if every person was well informed upon matters of health and hygiene, and then acted under the " Golden Rule " as a good citizen, the enforcement of health regulations would be an easier matter than it is. Then the enormous loss of money and

time, to say nothing of the misery and suffering caused by improper ways of living, would be much lessened.

## SUGGESTIVE QUESTIONS.

1. Make a calculation showing how much time is lost in a year by travel over a stretch of bad road in your vicinity. Can you calculate the amount of "wear and tear" upon horses, harness, and vehicles caused by this road?
2. In your town are highway taxes paid in money or in labor? Which is the better system?
3. Have you seen money wasted upon road improvement that was not permanent?
4. For discussions of streets see Hill, Junior Citizens, Chapter 4; Dunn, Community and Citizen, Chapter 14; Reinsch Young Citizen's Reader, Chapter 10.
5. Public health is treated in Dunn, Chapter 9; Hill, Chapter 2.
6. Parks, Hill, Chapter 7; Village Improvement, Chapter 12.

## CHAPTER XV.

### LOCAL TAXATION.

**The Property Tax.** — The greater part of the money that is needed to pay the salaries of officers and the other necessary expenses of local government is raised by taxation. The local treasuries also receive money in the form of license fees. These come chiefly from the liquor license (varying from $100 to $500), though in cities other industries may be taxed.

There is a taxing body in each unit of government, as follows:

| | |
|---|---|
| Town.....Town meeting | City.....City council |
| Village.....Village board | County.....County board |
| School district...School meeting | State.....Legislature |

**The General Property Tax.** — The form of taxation employed in the local units is known as the general property tax. This system "is based upon the principle that the individual citizen should contribute to the support of the government in proportion to his ability, measured by the value of his property." Other forms of taxation are used for State purposes, but these remain for discussion in a later chapter. (See Chapter XVI, "State Finances.")

**The Returns Received from Taxes.** — A tax is generally looked upon as a necessary evil; there is evident everywhere a feeling of hostility toward all forms of taxation.

If one looks beneath the surface of the matter, however, he may readily see the matter in a different light. What are the returns which the citizen receives for the money spent in taxes? Could he obtain the same results in any other way so cheaply? Security of person and property, the protection of the law in a hundred ways, good roads and sidewalks, parks and amusements, schools and libraries — these are a few of the good things purchased by the joint payments of the taxpayers. Indeed, it is entirely safe to say that no other ordinary expenditure brings to the citizen such great benefits in proportion to their cost as those received from the payment of taxes.

**The Assessment of Property.** — The first step in carrying out the property tax is called *assessment*. Beginning on the first of May each year, it is the duty of assessors in towns, villages, and cities to place a value upon the taxable property held by all persons.

**Exemptions.** — Not all kinds of property are taxed. The following are the principal things exempt: property owned by the United States or by the State or any local government; property owned by religious, scientific, literary, and benevolent associations and used by them; the equipment of fire companies; cemeteries; the stock of corporations that pay taxes on their property; debts due a person, to the amount of his own debts; wearing apparel, family portraits, private libraries, not exceeding $200 in value; household furniture, $200; a mechanic's tools; one bicycle, one sewing-machine, and one watch; growing crops, wagons having tires three inches or more wide, and wide-gauge sleighs. The property of railroad companies is taxed under a different system (see p. 114), and hence is not assessed by local assessors. The same is true to some extent of telegraph, telephone, and express companies (see p. 114).

**Contents of the Assessment Roll.** — In the assessment roll made by each assessor, the property of each individual is listed under certain heads. The most important of these are the following: horses, cattle, sheep, swine, wagons, carriages, sleighs, watches, pianos, organs, bank stock, merchants' and manufacturers' stock, lumber, vessels, land, city and village lots. Under land and city and village lots is included the value of buildings located on them. These together are called *real estate*. All other property is called *personal property*. How, you may ask, is the assessor to estimate the value of this property? The law says, "from actual view or from the best information that the assessor can practically obtain." To assist him in ascertaining the value of personal property the assessor may examine the owner under oath as to how much he owns and its value. Any person making false statements to the assessor concerning these matters is liable to a severe penalty. Real property must be valued "at the full value which could ordinarily be obtained therefor at private sale." Personalty must be valued at its "true cash value."

**Undervaluation.** — Such are the exact requirements of the law, but in actual practice there is frequently the undervaluation of property; *i. e.*, it is assessed at a lower value than its real worth. Now, if the assessors of a single town, village, or city undervalue the property of every person in the same ratio, this will not decrease the amount of local taxes to be paid by any property owner. If, as an example, the taxable property of a town is worth $500,000, and the amount of taxes to be raised is $5,000, it

is evident that the rate of taxation will be one per cent. Mr. Smith, whose property we may imagine to be worth $1,000, will pay $10 in taxes. If, however, the assessors value property in that town at one-half its true value, then the total valuation will be $250,000, and the rate will be two per cent. Mr. Smith's property will be valued at $500, and his taxes will amount to $10, as before.

Why, then, is property undervalued? For several reasons. (1) Because an individual is less likely to object to a low valuation. (2) Because assessors do not wish to become unpopular through the performance of a disagreeable duty. (3) Because, as we shall see later, when county and State taxes are distributed among the towns, villages, and cities, the undervaluation may enable the people of a locality to escape their full burden of taxation.

**The Equalization of Assessments.** — The next step in the process of taxation is called *equalization*.

The valuations fixed by an assessor in any town, village, or city are subject to revision and correction by the local "board of review." In the town this board consists of the supervisors, clerk, and assessors; in the village, of the president, clerk, and assessors; in the city, of the mayor, clerk, assessors, and the supervisors from the various wards.

The board of review meets annually in June or July and adjourns from day to day until the work is completed. The board examines and corrects the assessment roll, raising and lowering valuations according to its best judgment. If a property owner thinks his property has been assessed at too high a figure, he may appear before the

board and ask for a reduction; if the board wishes to add property to the roll or to raise a valuation, it must give due notice to the owner, who may appear before the board and protest against this action. This is one way in which an individual may protect himself against unjust taxation. The corrected assessment roll is then delivered to the clerk of the town, village, or city.

The county board and the State Tax Commission also act as equalizing boards. They see that each county pays its fair share of State taxes; and that each town, village, and city pays the amount that it should in taxes to help support the county and State governments.

**The Rate of Taxation.** — Calculation of the rate and collection of taxes completes the entire process. When the Secretary of State has notified the county clerks how much of the State tax each county must pay, and when the county clerk has notified the town, village, and city clerks how much of the combined State and county taxes each local government must pay, then it becomes the duty of these clerks to calculate the rate of taxation. This is done by dividing the total amount of taxes (local, county, and State) to be raised in a local unit, by the total valuation of that unit as found in the assessment roll. A *tax roll* is then made out containing the names of property owners, the description and valuation of their property, and the tax to be collected from each.

**Collection of Taxes.** — The tax roll, when complete, is delivered into the hands of the local treasurer, and the collection of taxes begins in December or January each

year. The fee of the town treasurer for collecting taxes that are paid on or before January 31 is two per cent, or such a rate, not less than one per cent, as the town meeting may determine. After that date he receives five per cent of all taxes collected. A similar rule applies to the fees received by village treasurers. In cities under the general law the collection fees are one per cent before January 31 and three per cent after that date.

All money that has been raised by general taxation is thus collected into the hands of the local treasurers. It then becomes necessary that each treasurer should pay the amount due the county to the county treasurer, and that every county treasurer in the State should pay his county's share of the State tax to the State Treasurer.

**Delinquent Taxes.** — If a person refuses to pay the tax levied against his personal property, or if for any reason the treasurer cannot collect it, account of this and other delinquent taxes is made to the county treasurer. The sheriff is then given a warrant under which he may seize and sell at auction any property of the delinquent property owner. If the property sells for a larger amount than the tax and costs, the balance is returned to him.

All delinquent land taxes are also reported to the county treasurer. This officer publishes a complete list and description of the lands and the amounts of taxes due. This is an advertisement for the sale of the lands at auction. The person offering to pay the taxes on a certain tract of land (together with interest on the taxes and fees for collection) for the least amount of that land is considered the

purchaser of that amount. Upon paying the taxes he receives a *tax certificate*. This certificate states that he will be entitled to a deed of the land in three years unless it is sooner redeemed. That is, the original owner may continue to occupy and use the land for three years; at any time within that period he may pay to the county clerk the delinquent taxes with interest and charges. He thus redeems his land and removes it from the delinquent tax list. The owner of the tax certificate may then be remunerated out of the money thus paid by the owner of the land.

## SUGGESTIVE QUESTIONS.

1. What reasons can you give for exempting from taxation the various kinds of property mentioned on page 106?
2. Do assessors in your neighborhood assess property at full value?
3. You will find a statement of the equalized valuation of your town, village, or city, as fixed by the county board, in its printed report. This report will also give the amounts of the county and State taxes raised.
4. Get from your local treasurer the valuation of your local unit as fixed by the assessors. (This will probably not be the same as that fixed by the county board.) Then, by learning the total amount of taxes raised, you can calculate the rate. Or, learn what the rate was and calculate the taxes. In these calculations omit the taxes raised in the school district.
5. What other moneys besides taxes come into your local treasury?
6. Make a list of the benefits that your family derives from the local government. From the State government. Can you calculate how much these things cost your family? Are they expensive?
7. Can a citizen contribute anything else besides money (taxes) to help make a good government?
8. For chapters on taxes, see Dole, The Young Citizen, Chapter 18; Dunn, Community and Citizen, Chapter 25; Judson, The Young American, Chapter 14; Hoxie, How the People Rule, Chapter 4.

## CHAPTER XVI.

### FINANCES OF THE STATE.

**Expenditures of the State Government.** — We have reviewed the various departments of the State government and the work of each. Whence, it will be asked, comes the money to pay the salaries of State officers and the expenses of the Legislature and the many State institutions? For these purposes there was expended during the year 1910, $6,243,000.[1] Grouping under convenient headings the items that make up this total amount, we have the following statement:

| | |
|---|---|
| 1. Legislature | $25,033.10 |
| 2. Executive office | 13,421.83 |
| 3. Administrative departments | 1,215,172.94 |
| 4. Judiciary | 235,948.43 |
| 5. Education | 1,528,647.56 |
| 6. Charitable and penal institutions | 1,749,056.44 |
| 7. New Capitol | 716,752.58 |
| 8. Miscellaneous | 759,796.63 |
| | $6,243,829.51 |

Let us now examine these items in their order as stated above.

1. *Legislature.* — The expenses under this head are very small in the even-numbered years, when there is no legis-

[1] This amount includes, however, considerable sums that were collected by the State and then turned back to the local governments for schools and other purposes.

lative session. In the year 1909 the amount was about ten times as much.

2. *Executive Office.* — This amount includes merely the expenses connected with the Governor's office.

3. *Administrative Departments.* — Here are included not only the salaries of the administrative officers, boards, and commissions, and of the clerks in these offices, but also appropriations made to numerous societies and semi-public organizations.

4. *Judiciary.* — The expenses connected with the supreme and circuit courts are included here.

5. *Education.* — The amount under this head includes money spent for the support of common schools, Normal Schools, and University; also State aid given to the various kinds of schools. Some of this money was not raised by taxation, but came from the various school incomes (see pp. 123, 125, 127).

6. *Charitable and Penal Institutions.* — About one-third of this sum was expended for the maintenance of the chronic insane in county asylums.

7. *New Capitol.* — This building, when completed, will have cost several millions of dollars, and will be one of which the people of the State may be proud.

**Revenues of the State Government.** — Taxation is the chief source of the revenue needed to meet these expenses.

Several different forms of taxation are used by the State, and these will now be explained separately.

I. *The State Property Tax.* — We have already seen how each county pays a part of this tax, the share of each county

depending upon the valuation of property there, as fixed by the State Tax Commission. The amount raised in this way in 1910 was $1,247,000.

II. *Corporation Taxes.* — The largest amount of money raised by the State comes from taxes levied upon corporations. The amount collected in 1910 was $4,328,000; of this railroad companies paid $3,163,000.

It was stated on p. 106 that the property of railroad companies is exempt from taxation by the local governments. The State Tax Commission fixes the value of all this property. The Commission then fixes a rate at which it is to be taxed, which is the same as the average rate of taxation in the different local units throughout the State. Thus a railroad company pays upon a given amount of property about the same taxes as would be paid by an individual owning the same amount.

Other corporation taxes are paid by insurance, telegraph, telephone, express, street-railway, and electric-light companies.

III. The legacy, or inheritance, tax is paid upon property that is inherited. The rate of this tax varies according to the amount of the inheritance, and also according to the relationship existing between the one inheriting and the one who leaves the property.

IV. The remaining amount of money necessary to support the State government came, in 1910, from fees collected by State officers, from the sale of the products raised or made at the penal and charitable institutions, and from miscellaneous sources.

V. Beginning in 1912 the State collects an *income tax.*

This is paid by persons and corporations upon the amount of income received from their business, after deducting the expenses necessary in carrying it on. The small incomes of persons are exempted; that is, all below $800 for a single man and $1200 for a man and wife. There is an additional exemption of $200 for each child under eighteen years of age. The rate of the tax varies according to the amount of income taxed, being higher on large than on small incomes. Seventy per cent of the amount collected goes to the local governments and twenty per cent to the counties.

**Public Debts.** — One of the most troublesome problems of government is the creation and handling of debts. It is easy for local and State governments to vote in favor of selling their bonds; and it is correspondingly difficult to provide means for the payment of the debts thus created. Hence the Constitution contains strict rules governing this matter. (See Article VIII, Sections 3–10, inclusive.) These rules may be summarized as follows:

1. The State cannot incur a debt in aid of any individual, association, or corporation.

2. The State cannot incur a debt to pay the ordinary expenses of government.

3. For the purpose of defraying *extraordinary* expenses, the State may incur a debt not exceeding $100,000. Such debt must be paid within five years.

4. No limit is fixed upon the amount of debt that may be incurred for expenses to repel invasion, suppress insurrection, or to defend the State in time of war.

5. Whenever the Legislature passes a bill levying a tax

or creating a debt, three-fifths (instead of a majority) of each house constitutes a quorum, and the vote must be by yeas and nays, so that the Journal will show the vote.

6. No town, city, village, or other local government can become indebted for a sum larger than five per cent of the assessed value of the property owned therein. Whenever a debt is incurred by a local government, provision must be made for raising money by taxation to pay the interest as it falls due and the principal within twenty years.[1] A part of the principal is raised each year and is set aside as a " sinking fund " until the entire debt becomes due.

Article XI, Section 4. The Legislature shall have power to enact a general banking law for the creation of banks, and for the regulation and supervision of the banking business, provided that the vote of two-thirds of all the members elected to each house, to be taken by yeas and nays, be in favor of the passage of such law.

As the laws of the United States provide for a system of National banks, so the State Legislature has provided a general banking law under which State banks operate. These banks are found in almost every village and city of good size. They are inspected regularly by the Commissioner of Banking, who sees whether they are observing the law and are financially sound.

The business carried on by banks is very helpful to the people in general, in several ways. (1) Banks keep money on *deposit* for individuals. Their vaults are fire-proof and may be even burglar-proof. (2) Banks loan money to

[1] A proposed amendment changes this time to fifty years in the case of cities over 150,000 population acquiring land for municipal purposes.

persons who may wish to enlarge their business. The merchant borrows in order to buy a larger stock of goods. The farmer borrows in order to build a new house or to buy land. The money that banks loan comes from two sources: First, their *capital;* that is, the amount invested by the *stockholders* when the bank was organized. Second, they may loan the greater part of their deposits, but must keep on hand a part, in order that depositors may draw out their money at any time. Third, every bank keeps some of its money in another bank located in a large city. So when A wishes to send money to B in another town, he will buy from the bank a *draft.* This is an order on the bank in the large city for the amount A wishes to send. He sends the draft to B, who can get his money (*i. e.*, cash the draft) at any bank where he may present it. The various banks then settle the transaction among themselves.

### SUGGESTIVE QUESTIONS.

1. **What good reason can you find for a tax on legacies?**
2. **The products and articles sold from each penal and charitable institution are shown in detail in the Report of the Board of Control. (Wisconsin Public Documents.)**
3. **Mention the names of several banks of which you know. Those whose names contain the word "National" are National banks, operating under United States law. Are you acquainted with any of the officers, directors, or stockholders of these banks?**

## CHAPTER XVII.

### EDUCATION.

**The District Schools.** — Wisconsin has a very complete and well-organized system of public education. The first class of schools to be considered is provided for in the following clause of the Constitution:

> Article X, Section 3. The Legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of four and twenty years; and no sectarian instruction shall be allowed therein.

The school districts of a town are laid out by authority of the town board. A " joint district " is one that includes parts of adjoining towns. The government of the district, like that of the town, is purely democratic; for here we find a general meeting of the voters, called " school meeting," held on the first Monday of July in each year. In this meeting, women who have the qualifications of voters may take part in the proceedings and may vote.

**Powers of the School Meeting.** — Besides electing the school-district officers, the annual meeting decides many important questions relating to the school building and its equipment, text-books, teachers, and the length of the

term. The meeting votes the taxes necessary for the maintenance of the school and for the payment of teachers' salaries.

**The School Board.** — The school board consists of three members: director, clerk, and treasurer. Their term is three years, and one is elected each year. The board has general oversight of school property, and makes a report at the annual meeting, showing the financial condition of the district; it carries out the orders of the district meeting with regard to teachers and other matters. The members of the board are required to visit the school and to examine into its condition. The clerk is secretary of district and board meetings.

**Consolidation of Country Schools.** — One of the great problems of rural schools is found in the small number of pupils that live in many districts. As a result, a low salary is paid to the teacher, and the school is poorly equipped. To remedy this defect the law provides that the voters of a school district may close their school and may provide for the transportation of the pupils to the school of another district. Here their district pays their tuition. Or, all the districts of a town or village may be consolidated into one, and children who live at a distance from the central school may be transported. In either case the State pays a part of the cost of transportation. With larger schools brought about in these ways, better teachers are employed, there is better grading of pupils, and the work of the schools is improved in many other respects.

**Schools in Villages and Cities.** — The district system of school government is found in towns and villages. In the country districts the schools are generally ungraded. In villages we find graded schools governed under the district system. Few cities have this system, but in most cases the city maintains its schools as a department of the city government, under a board of education. This board may be elected by the voters or appointed by the mayor and council. It appoints a superintendent of schools.

**The County Superintendent.** — The district and graded schools of a county, except those situated in cities that have a city superintendent, are under the jurisdiction of the county superintendent. This officer is elected at the April election for a term of two years, beginning the first Monday of July. The most important power of the county superintendent of schools is to examine and issue certificates to teachers. This is a very important matter because the character of the school depends chiefly upon the education and fitness of the teacher.

County superintendents are elected at the spring election. The term is two years. Superintendents must have certificates qualifying them to hold office.

**State Superintendent.** — This officer is also elected in April for a term of four years. His most important duties may be stated under the following heads: (1) He has authority over the granting of teachers' certificates in many ways. (2) He distributes the school moneys of the State among the common and other schools, after deter-

mining whether they have complied with the laws under which they are entitled to State aid. (3) He decides appeals. Persons who consider themselves injured by the action of a school meeting or officer may appeal to the Superintendent, who decides the meaning of the law and its application to each case. (4) He makes the lists of books for the town libraries and for high schools. (5) He makes courses of study for the district, graded, and high-schools of the State. (6) He is a member *ex officio* (that is, because he is Superintendent) of the Board of Regents for Normal Schools and of the University Board of Regents. (7) It is the Superintendent's duty to visit schools, to arouse an interest in education, and to bring about desired improvements.

In the office of the Superintendent, at Madison, assisting him in the performance of these duties, are an assistant superintendent, a chief clerk, a library clerk, a high-school inspector, a rural-school inspector, and two inspectors of graded schools.

**Compulsory Education.** — Every child between the ages of seven and fourteen years (and also those between fourteen and sixteen who are not regularly employed in some occupation) must be enrolled in a public, private, or parochial school, and must attend his school during its regular school year. In cities this attendance must be for eight months at least, and in towns, villages, and districts for a minimum of six months during the year. Provision is made for truant officers who shall enforce this law.

There are several reasons why compulsory education is right. First, every child has a right to an education that

will fit him for the work and the enjoyment of life. There are parents who will deny their children this right if the State does not enforce this law. Second, since adults are permitted to take part in the government, they should have an education that will make them intelligent citizens. Third, since many evils and crimes have their source in ignorance, society demands for its protection that every child shall have at least the beginnings of an education.

**Prescribed Studies.** — The law prescribes the following list of studies to be taught in every district school: orthography, orthoepy, reading, writing, grammar, geography, arithmetic, the history and civil government of the United States, and of Wisconsin, the elements of agriculture, and physiology and hygiene with special reference to the effects of stimulants and narcotics. Physical training is a required branch in city schools.

**Kindergartens.** — School districts and cities are authorized to establish and support free kindergartens for children between the ages of four and six years.

**School Moneys.** — The money required to support the common schools of Wisconsin comes from two sources: (1) taxation in the school districts and cities; (2) the distribution of State money among the local governments. The law provides that the amount of tax raised by any town, village, or city shall be at least *equal to* the amount received from the State. In towns and villages the school taxes are raised by the school district meeting. In cities the council levies the tax.

**State School Money.** — It will next be asked, What is the origin of the money distributed by the State among the local governments for the support of schools? The *school fund* must first be understood. A fund is an amount of money set aside for a particular purpose.

The sources of the State school fund [1] are:

1. The proceeds of lands (*i. e.*, the amount received from their sale) granted to the State by the United States. This land was Section 16 of each township, a total of 1523 sections, or nearly 1,000,000 acres. The greatest part of this land has now been sold.

2. Property forfeited or escheated to the State. When a person dies without leaving heirs, his property goes to the State by escheat.

3. In time of war a person may pay money as a means of escaping military duty. This is turned into the school fund.

4. When fines are paid by those who are convicted of committing crimes, the net proceeds, after paying officers' fees, go to the school fund.

5. The State received from the United States 500,000 acres of land for internal improvements, and the proceeds from the sale of these lands has been added to the other items.

6. Of the proceeds from the sale of other lands granted to it, the school fund receives five per cent.

From all these sources money has been gathered into the school fund, none of which is ever spent; so that while it amounted in 1910 to about $4,000,000, it is always grow-

[1] See Constitution, Article X, Section 2.

ing larger. This money is loaned to towns, villages, cities, and other local governments; the interest coming from these loans is known as the "common-school-fund income."

Added to this income is an amount raised each year by a State tax of seven-tenths of a mill on each dollar's worth of the taxable property in the State. In 1910 the total amount coming from the school-fund income and this tax was about $2,000,000. This was distributed among the towns, villages, and cities of the State in proportion to the number of children in each who are between the ages of four and twenty years. So while the State *collects* from the local governments the larger part of the school money according to the value of property in them, it *distributes* all of the school money among them according to the number of children of school age. Consequently, any section where people are comparatively poor and families are large receives more school money than it pays on the State tax; and the richer thus help support the schools of the poorer sections.

We must not forget, however, that of all the money that supports the common schools in Wisconsin, by far the greatest part is raised in the various local units by their own taxation (see p. 122).

**State Graded Schools.** — These are divided into two classes, those having three or more departments being in the first class. The qualifications for teachers in graded schools are prescribed by law, and it requires that the schools shall be in session for at least nine months each year. Money is voted by the Legislature to aid graded

schools upon the fulfilment of certain conditions, such as the sanitary condition of the school building and its equipment.

**Free High Schools.** — It is the policy of Wisconsin to encourage free high schools of excellent grade and good equipment. Towns, villages, and cities that maintain high schools having the prescribed courses of study and employing teachers of certain qualifications are granted State aid to the extent of one-half the amount actually expended for instruction in their high-school departments.[1] When manual training, domestic science, or agriculture are taught, additional aid is received.

**State Normal Schools.** — There are in Wisconsin eight State normal schools, situated at Platteville, Oshkosh, Whitewater, River Falls, Milwaukee, Stevens Point, La Crosse, and Superior. It is the purpose of these schools to furnish education and professional training for teachers. They also give the first two years of a college course. The money supporting our normal school system is (1) the income derived from the normal school fund. This fund amounts to about $2,000,000, and originated in the sale of swamp lands which were granted by the United States to Wisconsin in 1850. This fund is loaned to the State and to counties and local governments that find it necessary to borrow money. (2) The Legislature appropriates money annually for the support of the normal schools.

The normal schools are under the control of a Board of

[1] Since the largest amount that can be received by any school is $500, several of the large cities prefer to frame their own courses and manage their own high schools independently of State aid.

Regents consisting of the State Superintendent and ten other members appointed by the Governor and confirmed by the Senate.

**County Training Schools.** — These schools are found in a large number of counties, their purpose being to educate and train teachers for the rural schools. The State aids the counties in supporting them. State aid is also granted to county schools of agriculture and domestic science. Both kinds of schools are governed by boards consisting of the county superintendent and two other persons elected by the county board of supervisors.

**The State University.** — The University of Wisconsin is the highest in grade of our educational institutions. It was provided for by the framers of the Constitution.

Article X, Section 6. Provisions shall be made by law for the establishment of a State university at or near the seat of State government.

The University buildings occupy a beautiful site on the shores of Lake Mendota. The faculty consists of several hundred members, and in the year 1910–11 the students enrolled were 5538 in number. The Board of Regents consists of the State Superintendent and the president of the University *ex officio*, one member from each Congressional district of the State, and two from the State at large, at least one of whom is a woman.

Lands were granted by the United States for the support of the University at various times. The fund thus created is but a little

more than $200,000, and the income from it is a very small part of the total sum expended in the maintenance of the University. The control and sale of the lands belonging to the various school funds are in the hands of a board of commissioners, consisting of the Secretary of State, Treasurer, and Attorney-General.

The University of Wisconsin ranks as the greatest State University in the country. It consists of the following colleges and schools: (1) The College of Letters and Science, including in its work languages, mathematics, the various sciences, history, etc. (2) The College of Engineering—civil, mechanical, electrical, chemical, and mining. (3) The Law School. (4) The College of Agriculture, which includes the experiment station, the long, short, and middle courses, the dairy course, farm economics, and home economics department. (5) The Medical School. (6) The Graduate School. (7) The Summer Session. (8) The Extension Division. This division is for the benefit of those who cannot go to Madison, and through it any citizen who has an elementary education may continue his studies while engaged in his regular work. Its departments are: (1) That of instruction by lecturers sent out from the University. (2) That of correspondence study. (3) The department of general information and welfare. (4) The department of debating and public discussion, which aids debating clubs and other persons interested in public questions.

**Other State Schools.** — The State maintains a Mining Trades School at Platteville and the Stout Institute at Menomonie.

**Industrial Education.** — The State has provided for *industrial*, *commercial*, *continuation*, and *evening schools* that may be established in any community. These schools are for the benefit of persons over fourteen years of age who cannot attend the public schools and may wish to continue their studies or take up new branches. They are especially for those who must be engaged in work and who wish to

study subjects connected with their daily employment. Under certain conditions employers must allow employees to leave their work in order to attend these schools. In places of more than 5,000 inhabitants, whenever twenty-five persons competent to attend the classes petition for such a school, it must be established and a local tax must be levied for its support. In other places the schools may be established. In either case a local board of industrial education has charge of the schools and the State pays one-half of the expense involved.

All such schools are under the general supervision of the State Board of Industrial Education, composed of the State Superintendent, the Deans of the Engineering and Extension Departments of the University, three employers of labor, and three skilled employees. Acting under this board is an assistant for Industrial Education in the State Superintendent's office. The Board also has charge of Stout Institute at Menomonie.

**Teachers' Certificates.** — Teachers' certificates are granted in several ways: (1) The county superintendent issues three grades of certificates, for which examinations are held; these certificates remain in force for one, three, and five years, respectively. Final standing obtained in a normal school may be accepted instead of an examination. (2) Graduates of four-years' high schools who have pursued certain courses and who have received first-grade county certificates may have their diplomas countersigned by county superintendents after having taught successfully for one year. These diplomas are then good for five years after date of countersignature. (3) The State Board of Examiners is composed of three persons appointed by the State Superintendent. It issues, after examinations, *limited* State certificates, good for five years, and *unlimited* State certificates, good for life or until annulled. This

board also issues the certificates which county superintendents are required to hold. (4) Normal school elementary certificates and normal school and University diplomas qualify their holders to teach for one year. These may be countersigned by the State Superintendent after one year's successful teaching, and the elementary certificates then become equivalent to a limited State certificate, while the diplomas have the same force as an unlimited State certificate. (5) The diplomas of colleges and normal schools situated in other States may be countersigned under certain conditions and thus made valid as if issued in this State. (6) Diplomas of county training schools are equivalent to certificates for three years.

## SUGGESTIVE QUESTIONS.

1. **Make a study of the way in which the school system of your home is maintained and governed: (a) Is there a school meeting? (b) Who are the school officers? How do they get their positions, and for what terms? (c) How are the teachers selected? (d) Who votes the school taxes? How much was raised during the last year? (e) How much State aid was received? (f) How is the supervision of the schools provided for?**
2. **What recommendations were made by the county superintendent in his last report? (See published report of county board.)**

# CHAPTER XVIII.

## AMENDMENTS TO THE CONSTITUTION.

Article XII, Section 1. Any amendment or amendments to this Constitution may be proposed in either House of the Legislature, and if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment or amendments shall be entered on their journals with the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next general election, and shall be published for three months previous to the time of holding such election. And if, in the Legislature so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the Legislature shall prescribe, and if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become part of the Constitution. *Provided*, that if more than one amendment be submitted, they shall be submitted in such manner that the people may vote for or against such amendments separately.

Section 2. If at any time a majority of the Senate and Assembly shall deem it necessary to call a convention to revise or change this Constitution, they shall recommend to the electors to vote for or against a convention at the next election for members of the Legislature; and if it shall appear that a majority of the electors voting thereon have voted for a convention, the Legislature shall at its next session provide for calling such convention.

**Steps in Making Amendments.** — In the first method of making amendments (Section 1) there are four steps. A

proposed amendment must (1) be passed by a majority vote of each house of the Legislature, (2) be published three months before the election of members to the next Legislature, (3) be passed by both houses of that Legislature, and (4) be approved by a majority of the voters. This is the only method that has so far been used in amending our Constitution. But another way is provided: the Legislature may vote to call a Constitutional Convention. This question will be submitted to the voters; if a majority approve, the convention will meet and draw up amendments or a new Constitution.

**New Methods of Making Amendments.** — Still another way of amending the Constitution, more simple than those mentioned above, may be seen in an amendment proposed by the Legislature of 1911. According to this plan, an amendment introduced in the Legislature, and not passed by it, may be submitted to a vote of the people if ten per cent of the voters petition for it. If, on the other hand, the Legislature has passed the amendment, it may be submitted to the people upon petition of five per cent of the voters. In either case, if a majority of the voters approve of it, the amendment will become a part of the Constitution.

### SUGGESTIVE QUESTIONS.

1. **In the Blue Book the State Constitution is printed with notes mentioning each amendment, and here may be learned the total number of amendments that have been adopted.**
2. **Were any amendments submitted to popular vote at the last election? If so, upon what subjects and with what results?**

3. Why should a proposed amendment be printed for three months preceding the general election following its first adoption by the Legislature?
4. What reasons can you give for the requirement that an amendment should be adopted by two Legislatures?
5. Do you think the new method is an improvement upon the original ways of amending the Constitution?

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Fond du Lac county 1st Senatorial district
Eighteenth. No II Albert) Pullen. Rep 1918

Johnson I ran 6th congressional District Albert
Was a L D Democrat

The Primary Election is held on the first tuesday in
September. It is held to Elect Sheriff and Gov

11th No Rep